

# Testimony In Opposition to West Hawai'i Rules and Amendments



ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES  
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

December 19, 2012

SUBMITTED VIA EMAIL AND U.S. MAIL TO:

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**Re: State of Hawai'i, Department of Land and Natural Resources, Division of Aquatic Resources Proposed Adoption of Hawai'i Administrative Rules Chapter 13-60.4 and Repeal of Chapter 13-60.3**

These comments are submitted on behalf of Earthjustice, the Humane Society of the United States, the Center for Biological Diversity, and Mike Nakachi in response to the State of Hawai'i, Department of Land and Natural Resources (DLNR), Division of Aquatic Resources (DAR) public comment notice regarding adoption of Hawai'i Administrative Rules Chapter 13-60.4 and Repeal of Chapter 13-60.3. Earthjustice is a non-profit public interest law firm dedicated to protecting natural resources, wildlife, and the right of all people to a healthy environment. Earthjustice's Mid-Pacific office is located in Honolulu, Hawai'i.

## **I. OVERVIEW**

We welcome this opportunity to provide comments on these proposed rules ("Proposed Rules").<sup>1</sup> We have serious concerns about the Proposed Rules because they fail to provide adequate protection for West Hawai'i's coral reef ecosystems from the effects of aquarium collection. We have identified several ways in which the Proposed Rules are inadequate, including the rulemaking process itself, the fact that the Proposed Rules are not accompanied by any explanation of the science supporting the bag/size limits or the "White List," nor have they been reviewed under the Hawai'i Environmental Policy Act (HEPA) to determine whether they "may have a significant effect on the environment." Haw. Rev. Stat. § 343-5(e)(3). Additionally, though DLNR has recommended establishment of a limited entry system of permitting for aquarium collection in West Hawai'i on multiple occasions,<sup>2</sup> the Proposed Rules do not impose

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<sup>1</sup> Our comments are restricted to the rules proposed in Hawai'i Administrative Rules Chapter 13-60.4 and the repeal of Chapter 13-60.3 that relate to the White List and aquarium collection bag and size limits in West Hawai'i. We recognize that there are several other new rule

provisions and rule amendments that are being proposed by DAR along with the Proposed Rules, including amendments to chapters 13-54, 13-57, and 13-75 of the Hawai‘i Administrative Rules, and that there are provisions of Chapter 13-60.4 that do not relate to aquarium collection—this comment letter does not express a position on these other provisions or rules.

<sup>2</sup>DLNR, Rep. to the Twenty-Fifth Legislature, Report on the Findings and Recommendations of Effectiveness of the West Hawai‘i Regional Fishery Management Area,

any limit on the number of aquarium collection permits that DLNR can issue. Without limiting the number of people who can collect aquarium species, the bag limits are meaningless. The Proposed Rules also ignore some of DLNR’s own data and information about the adverse effects of the aquarium trade on fish populations and West Hawai‘i’s coastal ecosystems.

DLNR needs to conduct a HEPA review of its aquarium collection rulemaking, or, at the very least, should develop rules on aquarium collection that are based on sound science after a careful examination of aquarium collection’s effects on Hawai‘i’s reef ecosystems and the species that inhabit them.

## **II. ISSUES WITH THE RULEMAKING PROCESS**

Several people who submitted public comments or expressed their opinions on the Proposed Rules received emails from DAR in response, prior to the close of the comment period on December 19. These emails from DAR expressed the view that a person submitting comments was obligated to take an “all or nothing” position on the West Hawai‘i rulemaking package, claiming essentially that a person had to support all of the rules or it would be the equivalent of supporting none of them. The reason given was that if a person failed to support the entire rulemaking package, the package would be sent back to the starting point by the Attorney General’s office, which would result in another ten years of drafting before the agency would be able to introduce new rules. There was no explanation provided for why new rules would take ten years to draft, or why parts of the rulemaking package could not move forward without all of the others. There is no reason, legal or otherwise, why a member of the public cannot support part of the rulemaking package, and oppose, or take no position on, the other parts. DAR’s assertion that a person must either be “for” or “against” the rules, rather than allowing the public to review each part to determine its merit was not only improper, but may have affected many of the comments that DAR ultimately received on the rulemaking package.

DLNR has an obligation under Haw. Rev. Stat. § 91-3 to “[a]fford all interested persons opportunity to submit data, views, or arguments, orally or in writing” and to “fully consider all written and oral submissions respecting [a] proposed rule,” meaning that regardless of whether the agency agrees with the opinions expressed in comments on a proposed rule, the agency must review and consider them. DLNR’s attempts to control the opinions expressed in public comments subverts the purpose of public participation in agency rulemaking, and taints the process. We ask that BLNR consider these process issues when it reviews the West Hawai‘i rulemaking package, particularly given the fact that it is unclear how many comments were affected, and we reserve the right to challenge the rulemaking process on the grounds that DAR’s attempts to influence the substance of public comments were legally improper.

## **III. THE BAG AND SIZE LIMITS IN THE PROPOSED RULES ARE NOT ACCOMPANIED BY SCIENTIFIC INFORMATION OR CATCH DATA**

DLNR fails to provide any scientific justification for the bag and size limits in the Proposed Rules, and fails to acknowledge how these rules will remedy the significant problems it has identified with West Hawai‘i aquarium collection, including the decline in yellow tang

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January 2010, at 31; Walsh et al., Long-Term Monitoring of Coral Reefs of the Main Hawaiian Islands, December 2010, at 98.

populations in the areas that are open to collection, and the lack of available data regarding several species on the proposed White List. As a result, the Proposed Rules fail to offer many protections for collected species and West Hawai‘i’s coral reefs.

A. DLNR’s Small Business Impact Statement’s Discussion of the White List Reveals Significant Flaws

In the Small Business Impact Statement (SBIS) that accompanies the Proposed Rules, the agency discusses the White List, which can be found in Proposed Haw. Code R. § 13-60.4-7(b), and the potential adverse impacts to aquarium collectors from agency adoption of the list.<sup>3</sup> The SBIS states that,

“[a]dverse revenue impacts of [the Proposed Rules] should be minimal, given that these “white list” species comprised 99% of the total fish catch and monetary value of the West Hawaii aquarium fishery (FY 2007-2011). The size limits for the highly targeted species have been tailored to prevent the taking of fish that are already considered less suitable for the aquarium trade (due to higher mortality or lower retail prices); the bag and size limits will also support the commercial sustainability of the fishery by ensuring greater breeding opportunities for existing fish stocks.”<sup>4</sup>

The SBIS also notes that the Big Island Association of Aquarium Fishers (BIAAF) supports the White List and bag and size limits.<sup>5</sup> Given the fact that the species on the White List represent 99% of the value of aquarium collection take in West Hawai‘i, it is hard to imagine how including all of these species on the list, most of them without bag limits, will result in any meaningful restriction of aquarium collection in West Hawai‘i. Unfortunately, DLNR provides no information to shed any light on how it expects these Proposed Rules to protect the coastal environment or quantifying the ways in which it expects the rules to provide better regulation of aquarium collection.

The SBIS also notes that “[t]here was considerable negotiation between involved parties on the final species listing in the ‘white list’ and the specifics of the size and bag limits. The number of species on the ‘white list’ was ultimately increased from 25 to 40 in response to input from Big Island aquarium collectors.”<sup>6</sup> It appears from this statement that it was “input from Big

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<sup>3</sup> DLNR, Small Business Impact Statement on Proposed Amendments to Chapters 13-54 and 13-57,

Repeal of Chapter 13-60.3, Adoption of Chapter 13-60.4, and Amendments to Chapter 13-75, Hawai‘i Administrative Rules.

<sup>4</sup> Id. at 1-2 (emphasis added). While the White List would prohibit take of all invertebrates in West Hawai‘i, according to DLNR’s comments in the SBIS, invertebrates comprise 1% or less of the West Hawai‘i aquarium trade.

<sup>5</sup> Id. at 2.

<sup>6</sup> Id. at 4.

Island aquarium collectors,” rather than scientific data, that resulted in the addition of fifteen fish species to the White List that had previously been excluded.<sup>7</sup>

**B. DLNR Provides No Scientific Justification for Frequently-Collected Species’ Bag and Size Limits**

There is a notable lack of DLNR analysis regarding the effects of the bag and size limits in the Proposed Rules on populations of yellow tang, kole, and Achilles tang in the West Hawai‘i coastal environment. This is concerning since DLNR studies have shown that there is “clear evidence of collecting impact” for four of the most heavily-collected aquarium species in West Hawai‘i, which include yellow tang and kole.<sup>8</sup>

The Proposed Rules’ bag and size limits for collection of yellow tang prohibit a person with a commercial aquarium collection permit from taking more than five yellow tang that are less than 2 inches in length and five yellow tang that are greater than 4.5 inches in length. Proposed Haw. Code R. § 13-60.4-4(2).<sup>9</sup> Studies on the yellow tang aquarium fishery in Hawai‘i reveal that juvenile yellow tang between 2-4 inches in length are targeted by the aquarium trade because “[s]maller and younger fish, i.e. very recent settlers, have low survivorship in holding tanks, and older and larger fish are less desired by the trade.”<sup>10</sup> The aforementioned bag and size provisions in the Rules would only place limits on the take of yellow tang that are already not desirable to the trade, which, as noted in Part III.A above, DLNR acknowledges in its SBIS on the Proposed Rules.<sup>11</sup>

There is no analysis of the anticipated effect of these bag and size limits on yellow tang populations or on Hawai‘i’s reef ecosystems in the Proposed Rules, in any background document on the rules, or in any of the documents DLNR prepared for the SBRRB. This is particularly surprising, given that DLNR’s own studies have found that in areas open to collection in West

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<sup>7</sup> The background document on the Proposed Rules also reveals that in August 2010 through January 2011, DAR engaged in negotiations with the BIAFF “regarding white list, size and bag limits,” which resulted in the presentation and approval of an “[e]xpanded white list of 40 species” by the West Hawai‘i Fisheries Council and the adoption of a BIAAF resolution approving the White List in September 2010. DLNR, Background on Proposed Hawai‘i Administrative Rule § 13-60.4, West Hawai‘i Regional Fishery Management Area, Hawai‘i, at 30-31.

<sup>8</sup> Walsh et al., supra note 2, at 105.

<sup>9</sup> The Proposed Rules fail to specify whether this is a daily limit, but given that the other bag and size limits in the Proposed Rule are daily limits, it seems likely that DLNR would interpret this provision as such. See Proposed Haw. Code R. § 13-60.4(b)(2)-(3).

<sup>10</sup> Williams et al., Impacts of a Hawaiian Marine Protected Area Network on the

Abundance and Fishery Sustainability of the Yellow Tang, *Zebrasoma flavescens*, 142 Biol. Cons. 1066, 1067 (2009); see also Stevenson et al., Fisher Behavior Influences Catch Productivity and Selectivity in West Hawaii's Aquarium Fishery, 68 International Council for the Exploration of the Sea Journal of Marine Science 813, 817 (2011) (stating that the mean yellow tang length caught by aquarium collectors during the course of the study was 6.1 centimeters, which is approximately 2.4 inches).

<sup>11</sup> Supra note 4.

Hawai'i, yellow tang populations have experienced a substantial decline.<sup>12</sup> In 2010, DLNR attributed this decline to both low yellow tang recruitment and "an increase in the number of aquarium collectors and collected animals relative to the period when the FRAs were established."<sup>13</sup> A 2011 study in West Hawai'i found that, "[t]he significant decline in abundance of yellow tang over the past 12 years in areas open to fishing despite closing ~35% of the coastline to fish harvesting, and the +75% greater abundance of yellow tang inside MPAs vs. outside underscores the fact that the fishery is having a strong effect on its resource."<sup>14</sup> While DLNR has stated that "[t]he continuing decline of yellow tang in areas open to collecting has prompted several additional proposed management actions," the Proposed Rules and accompanying documents do not address how and to what extent these bag and size limits are expected to affect yellow tang populations in West Hawai'i.<sup>15</sup>

There is a similar lack of data on the rationale behind the bag limits for kole and Achilles tang. DLNR has acknowledged that it has concerns regarding Achilles tang populations, finding that "[i]nitial results from [DAR monitoring] and other ancillary longer term[] studies suggest there should be concern for the sustained abundance of this species."<sup>16</sup> The bag limits for Achilles tang in the Proposed Rules would limit collectors to no more than ten fish per day, Proposed Haw. Code R. § 13-60.4-7(b)(3), however, it is not clear how DLNR expects this to affect Achilles tang populations in West Hawai'i. This is a relevant question given that, according to DLNR's data, between 2006 and 2010 collectors took approximately 80% of the population of Achilles tang in the open areas surveyed in West Hawai'i.<sup>17</sup> Regarding the kole limits, without data that provide information on the size of kole that are actually collected by the trade, it is impossible to assess what effect the bag limits will have on kole populations in West Hawai'i. DLNR needs to analyze the effects of these rules on the environment, including on fish populations, before finalizing them.

#### C. DLNR Has Conservation Concerns Regarding Several Species Included on the White List

According to DLNR, the White List is being proposed to "help protect populations of species that are rare, potentially overfished and/or are not suitable for home aquariums" and "will reduce the threat of population decline of rare species, a major concern for stakeholders interested in the long term health and biodiversity of our coral reefs."<sup>18</sup> However, there are several species that are on the White List for which DLNR has documented population concerns,

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<sup>12</sup> Supra note 7, at 1070. The study noted that between 1999 and 2007, yellow tang density decreased by 45% in areas open to collection in West Hawai'i.

<sup>13</sup> DLNR, Rep. to the Legislature, supra note 2, at 14.

<sup>14</sup> Stevenson et al., supra note 10, at 820. The study also states that "[u]nfortunately,

despite the increase in fish abundance inside the MPAs, the MPAs may in part be responsible for the decline in the resource because they concentrate fishers into fewer areas, while increasing (or at least maintaining) pre-MPA fishing pressure by allowing the numbers of fishers to increase over time.” *Id.*

<sup>15</sup> Walsh et al., *supra* note 2, at 98.

<sup>16</sup> DLNR, Rep. to the Legislature, *supra* note 2, at 16.

<sup>17</sup> Walsh et al., *supra* note 2, at 112.

<sup>18</sup> DLNR, West Hawai‘i Regional Fishery Management Area (WHRFMA) Rule Proposals, October 12, 2012, at 2.

or for which it does not have population information, so it seems highly likely that inclusion on the White List will continue to perpetuate the population problems for these species.

DLNR has stated that it has “population concerns” and notes problems with “survivability in captivity” for the psychedelic wrasse.<sup>19</sup> DLNR has also identified Tinker’s butterflyfish as a species that is “particularly vulnerable to depletion because [it] may be naturally uncommon or rare but command high prices in the aquarium trade and [is] thus highly sought after by collectors.”<sup>20</sup> Both of these species, along with Fisher’s angelfish, are included on DLNR’s list of Species of Greatest Conservation Need, an integral part of Hawai‘i’s Comprehensive Wildlife Conservation Strategy (HCWCS), which was created because of “the uniqueness of Hawaii’s natural environment” and is intended to “ensure[] that [] information gaps and conservation needs regarding these species are addressed.”<sup>21</sup> All three of these species are included on the White List without bag limits. See Proposed Haw. Code R. § 13-60.4-7(b). In 2011, according to DLNR’s catch data, 418 psychedelic wrasse, 213 Tinker’s butterflyfish, and 60 Fisher’s angelfish were removed from West Hawai‘i reefs, and there is no explanation anywhere in the Proposed Rules or in the accompanying documents that explains what effects these species’ inclusion on the White List will have on their populations or the environment.

In HCWCS, DLNR specifically discusses the psychedelic wrasse, stating that it is a species that is “prized by aquarists” and “[t]he goals of conservation actions are to not only protect current populations, but to also establish further populations to reduce the risk of extinction.”<sup>22</sup> Furthermore, the HCWCS emphasizes that the psychedelic wrasse has “different color phases for each sex and also juveniles, and in particular the juvenile color phases are often targeted by collectors.”<sup>23</sup> There is a noticeable lack of DLNR data on the effect of removal of certain ages or sexes of individual fish based on their coloring, but there seems an unexplored risk that fish age and sex ratios could be skewed on Hawai‘i’s reefs because certain members of a species are targeted by the trade for aesthetic reasons.<sup>24</sup>

In addition to these species of documented conservation concern, there are seven species on the White List “which had distributions and/or behaviors which precluded obtaining accurate

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<sup>19</sup> *Supra* note 7, at 27.

<sup>20</sup> DLNR, Rep. to the Legislature, *supra* note 2, at 21.

<sup>21</sup> DLNR, Hawai‘i’s Comprehensive Wildlife Conservation Strategy, Appendix A: Wildlife (Fauna) Species of Greatest Conservation Need, available at: [http://www.state.hi.us/dlnr/dofaw/cwcs/Conservation\\_need.htm](http://www.state.hi.us/dlnr/dofaw/cwcs/Conservation_need.htm).

<sup>22</sup> Hawai‘i’s Comprehensive Wildlife Conservation Strategy, available at: [http://www.state.hi.us/dlnr/dofaw/cwcs/process\\_strategy.htm](http://www.state.hi.us/dlnr/dofaw/cwcs/process_strategy.htm).

<sup>23</sup> *Id.*

<sup>24</sup> DLNR has also failed to explore the effects of aquarium collector’s selection of certain

fish and discard of others. A 2011 study of aquarium collector behavior in West Hawai‘i found that collectors discarded fish that “were either commercially unimportant (e.g., *C. agilis*), blemished (e.g. natural discolouration and deformation, or laden with parasites), or injured (e.g. fin damage).” Stevenson et al., Fisher Behavior Influences Catch Productivity and Selectivity in West Hawaii’s Aquarium Fishery, 68 International Council for the Exploration of the Sea Journal of Marine Science 813, 817 (2011). DLNR has not looked at whether this removal of only healthy, robust individuals from the ecosystem is having any effects on the health of aquarium fish populations.

density estimates in the survey areas,” and thus it appears that DLNR does not have data on the effect of aquarium collection on their populations.<sup>25</sup> These species are the blacklip butterflyfish, bluestripe snapper, Fisher’s angelfish, Tinker’s butterflyfish, flame wrasse, Hawaiian longfin anthias, and eyestripe surgeonfish.<sup>26</sup> Fisher’s angelfish and Tinker’s butterflyfish, as discussed above, are both on DLNR’s list of Species of Greatest Conservation Need.

Furthermore, the Hawaiian dascyllus is included on the White List without bag limits, but it has been petitioned for listing as an endangered species. See Proposed Haw. Code R. § 13-60.4-7(b). On September 13, 2012, the Center for Biological Diversity filed a petition with the National Marine Fisheries Service (NMFS) “to list eight pomacentrid reef fish and to designate critical habitat to ensure their survival.”<sup>27</sup> One of the fish named in the petition is the Hawaiian damsselfish (*Dascyllus albisella*), otherwise known as the Hawaiian dascyllus or Hawaiian domino, because it is “threatened by the loss and degradation of its coral reef habitat due to temperature-induced mass bleaching events and ocean acidification, as well as direct harms to essential functions due to ocean warming and acidification.”<sup>28</sup> According to DLNR’s 2011 catch data, 200 Hawaiian damsselfish were taken from West Hawai‘i’s reefs last year.<sup>29</sup> A 2011 study on collectors’ behavior in West Hawai‘i found that the Hawaiian damsselfish had a “high[] value of electivity,” meaning that the “taxon was overrepresented in the catch composition in relation to its availability in the environment.”<sup>30</sup>

A study on the effects of coral bleaching and aquarium collection on anemonefish and damsselfish in Australia stated that “[t]he results of this study suggest that bleaching has reduced the occurrence of anemone and anemonefish on the reefs around Keppel Island and also that management status may have an effect.”<sup>31</sup> As a result, the study suggested “[a] suspension of commercial harvest [to] relieve the additional pressure that collecting places on these species.”<sup>32</sup> The study concluded that “[t]he compounding effects of climate change-driven bleaching and continued industry self-regulation without consideration for localized depletion of heavily targeted species could be devastating for local reefs in the [Keppel Island] region without fisheries management intervention.”<sup>33</sup> The aquarium trade’s preference for the Hawaiian damsselfish and the growing threats to its habitat present strong evidence that DLNR should be studying this species and implementing stricter restrictions on its collection—yet DLNR fails to provide any protections for this species in the Proposed Rules.

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<sup>25</sup> Walsh et al., supra note 2, at 104.

<sup>26</sup> Id.

<sup>27</sup> Center for Biological Diversity, Petition to List Eight Species of Pomacentrid Reef Fish, Including the Orange Clownfish and Seven Damsselfish, as Threatened or Endangered Under the U.S. Endangered Species Act, filed September 13, 2012, available at: [http://www.biologicaldiversity.org/campaigns/reef\\_fish\\_in\\_peril/pdfs/Clownfish-and-damsselfish-](http://www.biologicaldiversity.org/campaigns/reef_fish_in_peril/pdfs/Clownfish-and-damsselfish-)

[petition-2012.pdf](#).

<sup>28</sup> *Id.* at 19.

<sup>29</sup> DLNR Hawai'i Aquarium Harvest Data 2011.

<sup>30</sup> Stevenson et al., *supra* note 10, at 815, 817.

<sup>31</sup> Jones et al., Losing "Nemo": Bleaching and Collection Appear to Reduce Inshore Populations of Anemonefish, 73 *Journal of Fish Biology* 753, 759 (2008).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 760.

#### IV. PROPOSED LISTING OF ENDANGERED CORAL SPECIES

On November 30, 2012, NMFS announced that it is proposing to list 66 coral species as either threatened or endangered under the Endangered Species Act, including *Montipora dilatata*, a species of coral thought to be endemic to the Hawaiian Islands that has its primary site at Kāneʻohe Bay, Oʻahu.<sup>34</sup> NMFS is proposing to list two other coral species that are found in Hawai'i as threatened, as well.<sup>35</sup> It is of utmost importance that DLNR consider these global factors when it makes rules, like these, that affect the health of Hawai'i's marine ecosystems, because we are at a point where reef resilience and biodiversity may determine whether or not our reefs survive the next century.

#### V. DLNR DOES NOT ADDRESS THE ENVIRONMENTAL EFFECTS OF AQUARIUM COLLECTION WITH THESE RULES

These proposed rules fail to address any effects of aquarium collection on the coastal, coral reef environment. DLNR has described animals collected by the aquarium trade as serving "fundamental biodiversity and ecosystem functions."<sup>36</sup> In DLNR's 1998 State of the Reefs report, it stated that aquarium fish collection was having a major, degrading effect on the coral reefs around the island of Hawai'i, that "many coral reef fish and invertebrates have complicated relationships to the overall ecology or the reef" and "[t]heir removal may [a]ffect the long-term stability of these ecosystems."<sup>37</sup> A study conducted in the Kona area in the late 1990's determined that aquarium collection was having a significant effect on seven of the ten species of aquarium fish surveyed, and also concluded that since the study focused on species that were heavily-collected by the trade, it was possible that "uncommon or rare species could also be threatened by overexploitation."<sup>38</sup>

In Hawai'i's Statewide Aquatic Wildlife Conservation Strategy, "excessive extractive use," which includes reef fish harvest for the aquarium trade, is listed as one of the major threats affecting aquatic species statewide.<sup>39</sup> The document expresses ongoing "concerns about aquarium species" despite acknowledging the existence of the Fish Replenishment Areas in West

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<sup>34</sup> Center for Biological Diversity, Petition to List 83 Coral Species Under the Endangered Species Act, filed October 20, 2009, [http://www.nmfs.noaa.gov/pr/pdfs/species/coral\\_petition\\_cbd.pdf](http://www.nmfs.noaa.gov/pr/pdfs/species/coral_petition_cbd.pdf).

<sup>35</sup> The two other coral species that are proposed for listing are *Acropora paniculata* and *Montipora patula/verilli*. *Montipora dilatata* is actually proposed for listing as a "species complex" along with *Montipora flabellata* (endemic to Hawai'i) and *Montipora turgescens*, which is also found in Hawai'i. NMFS, Status Review Report of 82 Candidate Coral Species Petitioned under the



U.S. Endangered Species Act, October 2011, at 306-10, available at: [http://www.nmfs.noaa.gov/stories/2012/05/07\\_coral\\_documents\\_page.html](http://www.nmfs.noaa.gov/stories/2012/05/07_coral_documents_page.html).

<sup>36</sup> Walsh et al., Long-Term Monitoring of Coral Reefs of the Main Hawaiian Islands, December 2010, at 103.

<sup>37</sup> DLNR, Hawaii's State of the Reefs, 1998, at 15, 21.

<sup>38</sup> Brian N. Tissot and Leon E. Hallacher, Effects of Aquarium Collectors on Coral Reef Fishes in Kona, Hawaii, 17 Cons. Bio. 1759, 1762, 1767 (2003).

<sup>39</sup> Meadows et al., Pacific Cooperative Studies Unit, Hawaii's Statewide Aquatic Wildlife Conservation Strategy, December 2005, at 3-13, available at: <http://manoa.hawaii.edu/hpicesu/techr/142/v142.pdf>.

Hawai'i.<sup>40</sup> Despite DLNR's statement in 1998 that "studies to characterize the effects of removal of reef fish on the coral reef ecosystem are necessary if this activity is to continue,"<sup>41</sup> DLNR has not provided any evidence as to how the bag and size limits, or other parts of the Proposed Rules, will affect the nearshore environment. In the Background document describing the timeline for the Proposed Rules, it states that "[b]ased on ecological concerns, population trends and/or catch data DAR recommended that 3 species be removed from the proposed 'white list'. These included bandit angelfish, HI Cleaner wrasse and Dragon Moray."<sup>42</sup> The agency does not provide any details regarding the ecological and other concerns that led to the removal of these species from the list, and fails to discuss or analyze any of the environmental effects of the inclusion of the 40 species on the White List. Furthermore, though DLNR used to submit a yearly status report to BLNR regarding the aquarium fish trade in the State of Hawai'i in the 1990s, the last report that DLNR submitted on the statewide trade, which included information on collection trends on the island of Hawai'i, contained data only through 1999.<sup>43</sup> Before DLNR enacts any rules on West Hawai'i aquarium collection, it needs to look at the scientific data it has, as well as collect new data, and craft rules that are protective of Hawai'i's coastal coral reef environment.

For the foregoing reasons, we urge DLNR to re-evaluate these Proposed Rules to make them more protective of Hawai'i's coral reef ecosystems and unique and endemic species. We believe that the Hawai'i Environmental Policy Act is applicable to this rulemaking, and, at the very least, that DLNR should develop rules on aquarium collection that are based on sound science after a careful examination of aquarium collection's effects on Hawai'i's reef ecosystems and the species that inhabit them.

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<sup>40</sup> Id. at 4-4.

<sup>41</sup> Supra note 37, at 23.

<sup>42</sup> Supra note 7, at 28.

<sup>43</sup> Status Report Aquarium Fish Collecting Statistics Fiscal Year 1995-99, March 2000



Robert Hajek

To [dlmr.aquatics@hawaii.gov](mailto:dlmr.aquatics@hawaii.gov)

12/19/2012 02:37PM

bcc  
Subject Testimony for rules package proposal - HAR Title 13, Ch. 54,  
57, 60.3, 60.4 & 75.

To the Board of Land and Natural Resources,

I am Robert S. Hajek, President of the, 30+ member, Big Island Association of Aquarium Fishermen (BIAAF), and I would like to submit testimony today with regards to:

The proposed amending of HAR Title 13, Chapter 54, "Puako Bay and Puako Reef Fisheries Management Area," and 57, "Keauhou Bay Fisheries Management Area;" to repeal HAR Title 13, Chapter 60.3, "West Hawaii Regional Fisheries Management Area, Hawaii;" to adopt a new Chapter 60.4, "West Hawaii Regional Fisheries Management Area, Hawaii;" and to amend Title 13, Chapter 75, "Rules Regulating the Possession and Use of Certain Gear"

There is a very valid argument to be made about how this entire proposed rules package should stop right here, right now. With all the misinformation, intimidation, manipulation and blatant disregard for established procedure and protocols, by the West Hawaii Fisheries Council (WHFC) and West Hawaii's Division of Aquatic Resources department (DAR), frankly, I don't know where to start. I'm afraid a single written testimony is an insufficient method of informing the Board of all the issues we face. I hope you will take the time to contact me, personally, over the next few weeks, to get a more thorough and detailed picture of the situation at hand.

In a nutshell, this rules package is the product of a small group of corrupt and arrogant individuals who feels they know better than anyone else about what's good for West Hawaii, and frankly, they do not.

West Hawaii DAR is William Walsh. WHFC is William Walsh. Let's make no mistake about this. He has successfully surrounded himself with minions that will not deviate from his well established anti aquarium fishery party line. WHFC does not, nor has it for many, many years, if ever, represented the community. While the concept of a community based input forum and council is great in theory, the WHFC is very much not an example of this. The WHFC is nothing more than a special interest group lobby, disguised as community interest representatives, with a set agenda and where not even facts and science will derail them from attempting to accomplish their goals.

There is also no immediate or direct oversight, no accountability. And the fox is guarding the hen house here, a house rife with conflict of interest, manipulation, intimidation and abuse of power. They are not a public opinion driven vehicle. They do not have the public's interest or the fishery's well being in mind when they act. While they claim to, their actions and conduct regularly betray them.

DAR is supposed to be the agency that protects our fishery and fisherman, not the one trying to destroy

it. We have no one fighting for our rights. We're 35 guys, and frankly don't have a chance against all the anti-aquarium fishing lobbies, the media and especially, our alleged protectors, DAR. We need you to help us. We need you to step up and take a good hard look at the corruption and make them accountable for their actions. There is no accountability, no system of checks and balances, no transparency.

The problem isn't the fishery or the resource; it's healthier and more robust than it's even been (up 13% in 2012, according to DAR) The problem is, and always has been, user conflict. And until we address the real problem, our fishery will continue to be the easy target for all the dive and snorkel operations looking to deflect all the problems they create, on to us, letting them fly under the radar.

The problem is not regulation; the problem is corruption at West Hawaii DAR.

The problem is William Walsh and his seemingly total disregard for the process, the fishery and his abuse of science to justify his own goals.

We are, and continue to be, the most regulated fishery in the state. We simply do not need more rules!

There are, however, 4 specific issues I have been asked to address, by my Association (BIAAF), on their behalf.

Specifically, there are the 4 non-vetted aquarium fishery related late-additions to the rules package, that are completely unacceptable, and they include:

1. 1.Fixed AQ letters on the fishing vessel.
2. 2. Identifying all fishing gear with names and license numbers.
3. 3. Notifying DAR by phone anytime we are out after sunset or before sunrise.
4. 4. and The West Hawaii permit.

1. Fixed AQ letters only perpetuate the animosity against us when we are out on the ocean on our boats not fishing. Thanks to years of negative media coverage and pressure from anti aquarium fishery groups, we are sadly often perceived as pariahs in our own community by fellow boaters and ocean lovers. Misinformed as many of them are, they report us as illegally fishing in a closed area because they see the AQ letters on the boat, even when we are just out on a fun day with our families, they expose our families to the obscenities people will hurl at us and just plain general harassment of us as we scuba dive, or snorkel or cruise along the shoreline.

2. Tagging all our nets, baskets and fishing gear amounts to nothing more than more needless harassment. It serves no purpose and does nothing to protect or benefit the aquarium fishery. Because this proposed modification was again unvetted, there was no opportunity to discuss the numerous issues and details necessary in creating any solid rule that will stand up to the test of integrity. This vague and general concept addresses none of the possible questions and problems that might arise from the implementation of such an ineffective idea.

3. Having to notify the DAR every time we are on the water, either after sunset or before sunrise is nothing more a waste of everyone's time and another way to try and make criminals out of honest, hard working fishermen. There is no reason for this at all and serves no purpose whatsoever. Again, being totally unvetted, this attempt at rule making is vague, porous and in no way protects or benefits our fishery.

Think about this for a second . . . they actually want us to call in to the DAR every time we are on the water, at night, with fishing gear on our boats?! During the winter months especially, we launch in the dark, in the morning, and come home in the dark at night almost every day, since we have to go so far to our open fishing areas (since they closed off 85% of the central 1/3 of West Hawaii, to us, to please the scuba and snorkel industries – again user conflict, not a resource issue). Pardon me, but honestly, what's next: Are we going need a note from our mothers? This is ridiculous.

4. Of all these elements, by far the most egregious part of this entire attempt at subterfuge, by DAR, is the request for a West Hawaii permit. Aside from the fact that this was, again, not vetted, at all, in any way, it is vague, superfluous and completely unnecessary. This is nothing more, than a badly veiled attempt, at a power grab by DAR, as it is quite possibly the most important component for them, in this entire rules package. It would give them the power over the fishery they have so long and desperately desired. It would appear that after having been rightfully denied, by the State's Attorney General, in earlier attempts to acquire outright autonomy over the WHRFMA, this would be a back-door-way for DAR in achieving the same goal: more independent control over the WHRFMA. It would be easy to believe that the reason DAR never had any intention of vetting this was because they knew it wouldn't have had a chance, so their only option was to try and sneak it through.

DAR continues to claim, right up to the night of the public hearing, that this is an ali-or-nothing rules package, not subject to any changes, other than perhaps some minor language-type adjustments.

I have talked to multiple members on the BLNR, and all of them, without exception, confirmed that this is not an "ali-or-nothing" rules package, as DAR continues to claim. Rather, any or all of its parts, can be deleted from the rules package, or let to continue on in the process. This is, after all, what the public hearing process is all about; to get feedback from the public, in whatever

form. As a matter of fact, at the May 25th BLNR meeting in Honolulu this year, BLNR Chairman William Aila, in response to the question asked by Tina Owens of the WHFC, stated quite

clearly, that any single, or number of parts of the rules package, could be eliminated from the body of the package, at the discretion of the Board. William Walsh of DAR, who was present at that statement, chose to ignore this fact, as it appears making public this very important piece of information would not help DAR with their own agenda. The BLNR needs to be aware of DAR's fairly overt attempt at stacking the deck by misinforming the public.

Tell people it's an ali-or-nothing rule, and you'll be able to persuade many people, who would have preferred to approve certain parts, but not others, to accept the whole package. It makes the selling of the West Hawaii permit element easier. Since it's so important for DAR to pass this component, by not letting people know that they have the option to reject it, they can better manipulate the "support for"

vs. "support against" numbers in their favor.

Initially, the request for the addition of a West Hawaii permit was described as nothing more than "housekeeping", a minor addition, with respect to its weight and importance in the package. Bury it in "housekeeping" was their best chance at success. But, since they found out that this was a very unacceptable element for us, and potentially a deal-breaker for them, they have increased its profile and is now included as one of the 5 most important sections, in some of their most recent information packages calling for support of the package. Interesting how it went from a minor housekeeping element to, now, a major component in the package. DAR has exposed themselves and their own true intentions here at this late hour. And now, since it is no longer a minor part but rather a major component of the rules package, how can they justify not vetting it? They can't, but they sure are going to try! You just can't have it both ways, DAR!

Either way, this was never vetted so it shouldn't exist, at all, in this package.

Also, let's not forget, Act 306 created the WHRFMA for the very reason we are all here today: so that within the framework of the state, special regulations could be developed for specific areas, like the WHRFMA, if necessary. Anything wanting to be passed in the WHRFMA already has an avenue to resolution, and that is with the state, and the WHRFMA within Act 306. DAR's request for an extra West Hawaii permit, in addition to the State license, is being justified by the alleged future need, development and implementation of a limited entry program. Why does DAR need an extra West Hawaii permit to attempt to accomplish this goal when the mechanism for rule making in the WHRFMA already exists, and has been the accepted procedure for the 13 years now? Do we really need yet another level of bureaucracy, and a potentially partial, special interest group driven one at that? As with DAR's unsuccessful attempt at acquiring autonomy for this region, and its aquarium fishery, could it be that the resistance they may have received, towards initial limited entry proposals with the state, made them feel the need to, yet again, try this back-door, surreptitious way in fulfilling their agenda?

All the specific rules already made for the West Hawaii aquarium fishery since 1999, through the creation of Act 306, have established the most regulated fishery in Hawaii. Any new rules should be processed, as always, through the regular channels, and those channels are via the state and the WHRFMA, already in place and effective for the past 13 years.

Essentially, any and all of the elements contained here, within this rules package, that have not been properly vetted, should be summarily deleted from this package.

This despicable abuse of power and influence and obvious desire to acquire more of the aforementioned, by DAR, needs to be addressed and considered when coming to a final decision. A West Hawaii permit is not needed with what Act 306 represents.

Please feel free to contact me if you require more details.

Thank you for your time ...

Robert S. Hajek

President -Big Island Association of Aquarium Fishermen

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Dec. 05, 2012

Aloha, kakou. I'm Teresa Nakama, a former member of the West Hawaii Fishery Council. I left the West Hawaii Fishery Council and formed my own Big Island Fishery Alliance to be a resource center to send information out into the community, around the island, on the other islands, and into the worldwide web.

I speak also for locals and the Hawaiian ohanas. I am troubled by this proposed rule package. There has been so many misconceptions of what really happened, and I was there. If they had only listened to the South Kona fisherman when the scoping meeting went out, instead of closing the meeting down at the Konawaena Elementary School when the Graces, the Choys, the Medeiros all stood up and said we are scientists, we are the professionals. But instead of listening, they shut the meeting down, they were not heard.

We started off with only 25 species for the fish collectors to collect, and all of a sudden, we weren't totally informed we were voting on 40 species. Where the 15 other species come from.

My son is 14th generation of Hawaiians. I am the 4th generation, I'm his mother. His name means come from Leiloa [ph], from Leiloa came Kamehameha. Those of you who come from afar who've lived here 20, 40 years, you are not generational.

Science did not listen to the local fisherman.

I oppose this package only because it was not consensual scoping with the fishermen. Our true fishermen who are generational in knowledge far exceeds any of the Ph.D.s that was called to say I support this. They are not generational.

I go fishing, I'm a shoreline fisherman. You going tell me I can only catch five. I feed my neighborhood, not only my ohana, I feed my neighborhood. I know when the mountains tell me to go fish. I read the Hawaiian moon calendar, I read the phases of the moon. It takes science to do that which was taught to me by our kupunas.

To say I favor this package, you don't have science. We don't have science along this mile of stretch from Opelo Point to Ka lae. We have past science. We have other people's science, but not current science.

I sat on the West Hawaii Fishery Council. I've been there since 1983 and I listened. I didn't say much because I was condescending by the others on the fishery council because I'm a local girl. You know what it is to feel

condescending. You know what it is to call the Hawaiian brothers come to the meeting and they cannot speak; to a scoping meeting in Kohala maybe about two to four people. I called for a meeting of the fishermen over there, I got 45.

How is it that the West Hawaii Fishery Council could not speak to our local fishermen. What is it? What is it when they come and say I'm a professional scientist and listen to me instead of a scoping meeting of listening to the local fishermen.

I hurt, and for this and the rest of the minutes I have, I olelo this. [Chanting]. You hurt us. You hurt us with a rule that you did not give us our chance for answer because you would not hear us.

Mahalo.

December 17, 2012

Teresa L. Nakama  
Kailua-Kona, HI 96740

Mr. William Tam  
Division of Aquatic Resources  
1151 Punchbowl St, Room 330  
Honolulu HI 96813

Re: West Hawaii Fisheries Management Area Proposed Rules Package

Dear Mr. Tam,

Please accept this testimony with regard to the amendments to the West Hawaii Fisheries Management Area administrative rules. While I believe that parts of the package should be adopted, a very large portion of the package is fatally flawed because of the dysfunction that exists in the West Hawaii Fisheries Council (WHFC). The proposed West Hawaii administrative rules package was created by the WHFC over a number of years, however, in the process the Council became an organization that no longer represented the community and stakeholders, and the Council became a "mouthpiece" of a small, but vocal, group of members.

This small group of members hijacked the, originally, well intended Council, and turned it into a vehicle to pursue their own agenda.

Because of the dysfunctional nature of the Council, very little outreach and interaction occurred with the fishing community in West Hawaii including shoreline fishers, net fishers and spear fishers.

Also, while aquarium collection fishers were represented on the Council, it is my opinion that they were mislead in many occasions.

Below I cite a number of gross and egregious violations that occurred during the last few years that ultimately caused to the organization to become grossly biased.

The guiding document of the Council is the WHFC Operational Practices & Procedures (OP&P) document. This document, originally came in force on October 11, 2000, and revised in 2003 2004, and finally on June 16, 2005. A copy of this document is attached to this letter.

The first and most important violation is the make-up of the Council. The OP&P states that "The Council shall consist of members representing a broad spectrum of community interests, user groups and geographic locale. Numbers and orientation of members should fairly represent the stakeholder community."<sup>1</sup>

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<sup>1</sup> OP&P Page 1. "Council Composition" Para. (A) Voting Members

I am a former WHFC member for the past 12 or more years. I observed in recent years that the Council make up does not fairly represent the stakeholders of the community. I observed that there has been no representation of the broad spectrum of the community interests, user groups and geographic locale. There are no current members nor has the Council not had members for several years from the Kohala-Kawaihae-Waikoloa and South Kona to Kalae (South Point) areas. Currently there are only 12 voting members on the Council that represent a narrow set of special interests.

According to the OP&P, "Council members must recognize that the success of community-based management lies in the exchange of information between stakeholders and decision-makers. All members are expected to act as liaisons with the community and bring pertinent concerns and matters to the Council and to the Community."<sup>2</sup> Egregious acts to prevent the expression of pertinent concerns have occurred.

The WHFC members have not delivered on their responsibilities to act as liaisons and to bring pertinent concerns and matters to the council and to the community. As a former member of the WHFC I have witnessed incidents when pertinent concerns of the stakeholders were suppressed and ignored. For example at the proposed role package public input meeting at Konawaena Elementary School, the meeting was shut down, before the stakeholders had a chance to give their input. The stated objective of the meeting was to receive public input. There were approximately 35 stakeholders that represented South Kona, including the ohana of the Graces', Cho's, Mederios' and more, and they wanted to be heard, but the DAR marine biologist closed the meeting not wanting to hear what the generational fisherman had to say.

Another incident happen at an informational meeting in the Fall of this year, at the Christ Church at the corner entrance at Konawaena High School, when again a Council Member told the stakeholders to shut-up, and that they were not there to listen to stakeholders' concerns. The secretary of the WHFC that was there that night went as far as to shut the lights off as a stakeholder wanted to be heard to delivery his message. The stakeholder, a Native Hawaiian and a gatherer for subsistence to feed his Ohana was denied his chance to speak.

The current Council membership is biased toward conservation and preservationist interests and do not fairly represent the community, from Upolu Point to South Point, and do not fairly represent stakeholders with interest in harvest use of the shoreline and inshore waters. The Council has violated its OP&P for recruitment of new Council members. The OP&P says: "Notices of invitation to apply for WHFC membership will be widely disseminated (advertised in local newspapers)."<sup>3</sup>

Through the many years that I sat on the WHFC, the Council has not widely disseminated notices of invitation for new WHFC membership in the local newspapers, instead they kept voting in the same members. They did not follow their own procedures and membership was hardly ever decided by written ballots.

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<sup>2</sup> OP&P Page 2, "Council Membership", Para. (A), Responsibility



<sup>3</sup> OP&P, "Council Membership", Para.(B) Application

A current member had to apply 3 times before she was accepted into the council, was it because she was Hawaiian? Another most current stakeholder member maybe the shortest term member when statements made at three meetings were not recorded in the minutes, and therefore he resigned after being there for not more than four months!

The Council also violated its term limitation. This allowed certain members to dominate the council. The OP&P states: "Term of membership shall be two years with a two-term limit or four years. A member may continue for another two-year term upon affirmation of their intent to do so and by vote of the Council, beginning on the date of the adoption of these revisions, July 15, 2004."<sup>4</sup>

The WHFC has not adhered to this part of their procedures, and I sat on the Council past my 6 year maximum term. So have many others who have been on the Council that kept being voted in time and time again after their terms should have expired.

The effect of the violation of term limits is that, not only did the Council miss out on fresh ideas from new members, but entrenched members continually participated in ex parte communications and made numerous "side deals" prior to official Council meetings.

Finally of the list of serious violation, I include the lack of adherence of the member removal rule: "Failure to attend or provide an alternate or proxy for three meetings during a term is grounds for removal."<sup>5</sup>

The WHFC has failed to exercise this part of the policy procedure and not removed members that failed to attend or provide an alternate or proxy for three or more meetings during a term.

While violating one or two rules may be ignored, but when a pattern of abuse is shown over a number of years it must be concluded that the Council is dysfunctional and no longer credible.

This gross and egregious violation underlies the West Hawaii administrative rules amendment package. In my opinion, these dysfunctional actions caused the SCUBA spear fishing and aquarium collection (the so-called "white list" and collector permitting proposals) portions of the package to be flawed. Therefore, I ask that the DLNR remove these portions from the amendment package and sent it back to the community for proper evaluation by the community.

Furthermore, I ask that the DLNR immediately disband the WHFC as it currently stands, then reconstitute a new Council that reflects the original intent of the WHFC. Membership should be assigned seats, such as representatives from each moku (district, i.e. Kau, South Kona, North Kona, South Kohala, and North Kohala), and known stakeholder groups, and members at large. Initial appointments to these seats should be reviewed by DLNR as part of the reconstitution of a new Council. In the future there should be periodic oversight of the Council by DLNR. Finally, the Council should enforce its own Operational Practices & Procedures. If the DLNR concludes that the department does not have powers to disband WHFC, DLNR should sever ties with the WHFC and formally deny WHFC's advisory role to the DLNR.

<sup>4</sup> OP&P, "Council Membership", Para (b), Term.

<sup>5</sup> OP&P, "Council Membership" Para. (E) Removal

Sincerely,

Teresa L. Nakama  
Former Member WHFC

Cc: Mr. William Aila Jr., Chairman  
Board of Land and Natural Resources  
1551 Punchbowl Street, Room 130  
Honolulu, HI 96813

Honorable Governor Neil Abercrombie  
1151 Punchbowl Street, Room 110  
Honolulu, HI 96813

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December 19, 2012

Aloha DLNR:

RE: Oppose the West Hawaii Rules Package.

My name is Wilfred Kaupiko, community leader from the last Hawaiian fishing village; Milolii. I oppose the rules package and this is why. I am here to tell you my experience with the tropical divers and the collection of tropical fish. I have been working with West Hawaii Fisheries Council and other conservation groups before my son was born and one of our main goals was to stop this foreign practice of aquarium fish taking. Miloli'i is unique because it is a FMA protected area from Kauna to Kealahou, Hookena, the only one in the state of Hawaii. A law was passed in 1924 to ban the use of fish chumming in this area; because of this law we further requested the ban on tropical diving because of the villagers concern of tropical diving and over harvesting. The tropical divers however requested that our area be open for collecting, and the council and DLNR sided with the divers. We got nowhere with the council. Now the reason why I am here again is because we have no fish left, our reefs are small and short, and a lot of these fish rely on the reef for food and there is no baby fish around because these divers have taken them all. The divers have no respect for our place, and also they have no respect for the traditional practices of my people. They come with boat after boats from Kona and they have pounded the reefs for hours collecting everything in sight. We have only closed a small section of Milolii only a mile long.

The near shore coastline of Kona is the most sought after area in the state. I have tried my best to stop these rippers from taking all the reef fish. I have brought this up many times, with the West Hawaii Fisheries Council & DLNR to help Milolii, Kaohe, Hookena & Honaunau and have received no help. These divers don't understand and don't care that we eat the fish for self subsistence, and by the over harvesting of the fish it will only deplete this precious resource and kill our marine ecosystem.

It has been 10 years since we created these no take zones, I have witnessed firsthand the state's failure to enforce the rules. It had to take many request by the community for DLNR to take any action and they finally caught some of these divers take in the no take zone. However, we have many other divers in Kona who are still coming in the South Kona and Milolii area. I recently have requested and talked to the DLNR to take action and they have told me they are "working on it." Recently another diver was

able to receive his license back and I have seen him pounding the reef. The DLNR needs to take action on this matter imagine the other communities in Kona and in the state. My life work has been on preserving the way of life in Milolii. I have gone to the federal government in Washington D.C. to protect our reefs, our fish, and our oceans.

Mahalo,

Wilfred Kaupiko

Dec. 05, 2012

Willy Kaupiko

I guess a lot of people know me out there. I've been in the paper quite a bit. I'm with the Earthjustice. We took the state to the court.

Well, I'm just trying to say, you know, it's amazing how much people showing up. Just tells me you all concerned about what's going on in Hawaii. We malama Hawaii. We malama the ocean. That's why we all over here.

I've been in this meeting so many -- we can go back with Mike Nakachi, 20, 30 years when we had this SOUR PACK. We had tons of people come in and bring up all these issues, these concerns. And me, I come from Miloli'i. Miloli'i is a small village. My father was a chief down there, and I happen to take over his position because I love where I come from.

I had everything in the ocean. I never used to worry about nothing, food, I never starve because the ocean supplies my table, believe me. That's why all us people, we got to malama the ocean. The ocean will malama you. It's your guardian, and that's what I was told. That's my icebox so you malama that.

But what I'm hearing -- trying to say that all these rules and regulations, how many meetings I gone to, that's why I'm taking the state to court because they're not doing what they supposed to do. All this rules and regulations, who's going to enforce it. That's the problem. You making rules today, Bill, and who's going to enforce the rule. You going to close up Paradise -- what's that place down there, Ka'ohe Bay. Who's going down there to regulate it? That's my question.

You cannot make rules if DLNR not going to go out there and enforce it. They don't have the manpower, they don't have the man or funds to go out there, no can. It's no sense. This is a waste of time. We getting problem with them. The best thing to do is, like I spoken of before, have volunteer enforcement DOCARE in your own community. Let your people go out there like we have some funds from Nature Conservancies and we had enforcement with our fishermen to go watch people, where they're fishing. And I will tell you, there's a lot of people that was diving, the tropical divers in the no-take zone.

What is that, what's going on? You make rules, you go out there and make sure everybody is following the rules. All this rules is -- I tell you,

it's a joke. I've been in this meeting so many times, and I tell you it's the same thing I hear. This is the same thing. It's a waste of time.

The state got to get their shit together. That's what I'm trying to say. They want to regulate something, let's regulate them, enforce them, get down there, jump on the boat and go out there and see what they're catching, not only talk or hear the report. That's bullshit. Everybody come back with the report and tell you. And Bill take the report. Oh, it sustains them. It's bullshit.

My place is all wipe out, to tell you the truth. I grew up over there when I used to throw for paku'iku'i, kole and everything with throw net. Now I don't see nothing. What that tells me. I go dive from my place to South Point, I don't see baby fishes. It hurts me. It really hurts me to be one Hawaiian, to know that there is no future for my kids, my generation.

Just what I see, I don't know who's to blame, but I'm just saying if you cannot enforce it, don't allow it. I've been three times in the state - the DLNR telling them if they -- I wish William Aila was here. He should have been here tonight to see everybody talking.

MR. TAM: He's on Oahu.

MR. KAUPIKO: There is no problem in Oahu. Kona has the problem. He should be here to listen to everybody. Look how much people show up. But I'm just saying this is -- I cannot -- I've been to this how many times and nobody is going to enforce this. You guys make the regulation, I'm going to guarantee you nobody going down there to check the boats, check all the people. It's a waste of time.

If you cannot enforce it, don't do it. That's what I want to say. That's what I want to leave you guys with because this is just a waste of time. But anyway, thank you very much, you guys.

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Date: Monday, December 17, 2012

To: Hawaii Division of Aquatic Resources, DLNR – State of Hawaii  
Re: West Hawaii Regional Fishery Management Area rule proposals (WHRFMA)  
From: Tony Costa,

#### Testimony

My name is Tony Costa and I am testifying on behalf of Hawaii Nearshore Fishermen, a loosely organized yet tight knit group of nearshore fishermen.

Hawaii Nearshore Fishermen and other commercial nearshore fishermen provide Hawaii markets with on average 60,000 to 125,000 pounds of fresh nearshore caught food fish species each month.

Hawaii nearshore fishermen feel the proposed rule package will inhibit their ability to continue to provide markets and communities with this very important food source and as such, HNF are in opposition to the proposed administrative rules for West Hawaii. The proposed rule package is a “kitchen sink” of rule changes which pose major concerns for Hawaii’s nearshore fishermen throughout the state. .

The proposal to ban scuba and spear is dangerous and compromises the community’s ability to gather food, threatens the livelihood of small businesses and the safety of food providers. The proposal to ban scuba-spearfishing is irresponsible and redundant. With bag and size limit regulations already established, there is no need to restrict gear type or method of fishing. All this does is make it unsafe and difficult for people to fish for food.

HNF use of scuba is essential in our operations.

The use of scuba is essential for safety, essential for selectivity, essential to the way we operate.

HNF use scuba and spear in almost everything we do.

The use of scuba and spear is the nature of our gathering style. We have been sustainably gathering/harvesting in this manner for the last 50 years.

Our own abundant catches confirm that stocks are healthy and fishermen continue to bring in and observe strong biomass in various species of food fish.

Fishermen are already limited under existing regulations (bag/size limit, gear restriction, seasonal closures). The impetus of this rule, driven by opinions of shoreline observers and failed attempt to pass legislation this past legislative session is now being proposed in a rule change, supported by the DLNR.

Thoughts/opinion, concerns, historical background:

Act 306, passed in 1998, created the West Hawaii Fishery Management Area to “improve the management of **consumptive and non-consumptive** uses of aquatic resources encompassing the regional ocean area on the west coast of Hawaii Island from Ka Lau, Kau (South Point) to Upolu point, North Kohala, but not including Kawaihae commercial harbor.”

This Act provides directives to manage an area to ensure sustainability of the State’s nearshore ocean resources; identify areas with resource and use conflicts; provide a management plan and implementing regulations for **minimizing user conflicts and resource depletion** by designating closed areas to fishing and other areas restricting anchoring and ocean recreation activities.

This Act did not have any funding mechanisms in place to conduct a comprehensive study of the waters surrounding the Big Island and determine if any potential adverse impacts or consequences would result from allowing community opinions to weigh in on closed areas and resource management. Act 306 also assumes that closed areas (called fish replenishment areas) is the proper management tool and cites Kaneohe Bay and Hanauma Bay as models for a comprehensive integrated ocean management plan. When Act 306 was heard as HB 3547 in the Legislature, fishermen did not testify in support. This shows that user groups and those who have a vested interest in the health of the resource did not support the position and directives of this Act. The verdict is not out on the effectiveness of closed area such as Hanauma Bay and many users and studies on areas closed to fishing only find this method to be inconclusive. Nonetheless, the DLNR has cited their efforts in working with **one** community group, the

West Hawaii Fisheries Council, a non-mandated, self-created advisory group to put forth regulations for the area without the expertise of consumptive users.

Act 306 states the DLNR shall identify specific areas and restrictions to be managed “after close consultation and facilitated dialogue with working groups of community members and resource users.” Working with one community group created with a bias and agenda, who has the ability to pick and choose its membership, and has specifically not allowed the membership of fishermen with contrasting views and experiences to sit on their council, is alarming and questionable. How can the DLNR support a biased and arbitrary council to dictate resource management proposals which would pose a threat to the health and safety of the resource and ultimately, the people of Hawaii?

Prior to Act 306, the Division of Aquatic Resources (DAR) established a community working group to mitigate user conflicts and difference on resource management and allocation between aquarium collectors, dive tour charter operations, hotels and others. The working group consisted of dive charters representatives, hotel representatives and aquarium collectors. The working group collective identified “conflict areas” where they felt needed to be addressed, which totaled approximately 30% of the West Hawaii area. With this, the group was disbanded.

Subsequently, certain aquarium collectors, went to West Hawaii Representative David Tarnas, expressing their frustration with NGOs trying to put them out of business, and suggested the management of the “conflict areas” identified by the working group with the understanding and agreement that no additional, non-agreed upon aquarium restrictions would follow to exceed the 30% managed area. Representative Tarnas then introduced legislation, HB 3547 which became Act 306 and passed with language mandating a “minimum of 30%” of the area to be managed.

At about that same time,

Some of the members of the disbanded working group formed the West Hawaii Fisheries Council and provided recommendations to expand the managed area to 35% and worked on administrative rules which were adopted.

Our opinion is this is an example of Administrative rule change that departed or exceeded the intent of the law (30% to 35%) even though language in the law allowed for it. This rule change clearly caused more conflict everlasting than it helped to mitigate – as seen by today’s vehement opposition and concern by various fishing communities.

The aquarium collectors who were working with Representative Tarnas felt betrayed and upset and no longer participated in any group as the WHFC continues to advocate for further fishing and aquarium collection closures while supporting dive charter and scuba operations which bring thousands of tourists to scuba and snorkel to view the colorful reef fish.

WHFC’s Mission Statement:

*“To effectively manage fishery activities to ensure sustainability; enhance nearshore resources; develop and implement management plans for minimizing resource depletion and conflicts of use; per legislative mandate to the Department of Land and Natural Resources to provide for substantive involvement of the community in resource management decisions; and encourage scientific research and monitoring of the nearshore resources and environment from Upolu Point to Ka Lae.”*

This group is Narrow-focused against extractive use, in support of tourist operations to “see the fish.” Therefore any rules passed/promoted by this group will have a strong bias. By definition, a group with a narrow mission and focus could only conceivably offer recommendations and suggestions that support their mission. For this reason, the department should not restrict their collection of “community input” to that collected by the WHFMC but should also sincerely collect and apply the input from other community participants such as fishermen and other food gatherers with equal weight.

Although the WHFMC represent a particular community, the dive charter community, they certainly DO NOT represent a broad cross section of the West Hawaii community and total community sentiment on this issue. . I believe the Department of aquatic resources has an obligation to listen to others besides the WHFMC.

Based on the comments from fishermen and residents of the area, I testify with great concern and opposition to these proposed rule changes – most specifically, the ban on scuba spear fishing.

Respectfully submitted,  
Tony Costa

~~~~~  
**For the Fishes**  
**Kihei, HI**

December 19, 2012

DLNR  
Div. of Aquatic Resources  
74-381 Kealahou  
Pkwy. Kailua-Kona, HI  
96740

**Re: Comments on Proposed New Administrative Rules, Chapter 13-60.4; Specifically White List and Bag Limits**

For the Fishes has a number of concerns regarding the proposed rules. Of utmost concern are the facts that the rules do not ensure the health and survival of targeted fish populations nor of the reefs that depend on them; and, they do not address the cultural and ethical concerns the community has with the commercial use of marine life for aquarium purposes.

We believe the rules are destructive to Hawaii’s reefs and wildlife because they would allow unlimited take of 40 fish species -- all of which are shrouded in controversy because they are a combination of the following points: 1) they are endemic; 2) they are depleted and/or threatened by the trade; and 3) they die within a month in captivity.

The rules are being promoted as a solution to make the trade more sustainable, but that claim cannot be substantiated as they are not based on sound science. Though legally required, the environmental impact of the trade has never been assessed.

In effect, the proposed rules give the trade the appearance of sustainability (i.e. greenwashing), per the following examples:

- If applied to 2011 collection reports, the rules would reduce take by 4,000 fish, about 1.1% of the 349,000 fish reported. Total trade revenue would come down \$13,000 or .009 of reported sales.
- Impacts of the proposed size limits cannot be determined: commercial data does not capture fish sizes.
- Unlimited take of the 40 species on the White List would apply to an unlimited number of collectors. There are no limits on the number of commercial permits issued -- available to all Hawaii residents for \$50/year.
- The number of animals reported is likely very different from what is taken: there is no mandatory mechanism to verify the species and numbers of animals taken/sold and therefore keep the reporting honest. It is well known within the division that there are wholesalers operating illegally and “underground”, purchasing and selling unreported catch.
- The rules are 100% unenforceable: enforcement officers are unable to check containers without probable cause. The result: unlimited species and fish leaving Hawaii reefs for mainland aquariums. Compare to Australia which takes the aquarium trade threat seriously:
- The Great Barrier Reef is massive with species diversity and abundance far outpacing Hawaii, but tropical fish collectors are allowed just a tiny fraction of available fish.
- Hawaii is reversed: aquarium take is massive -- overall several times higher than Australia’s, with 60 - 80% of some populations taken by the trade -- and our reefs are comparatively tiny.
- The **Great Barrier Reef** aquarium trade took **134,000 fish** in 2010.
- Compare to **West Hawaii** trade’s recent report of **349,000**.

#### White List Species:

- Per DLNR documentation, at least twenty of the forty species on the list already show serious population problems or are otherwise threatened by the trade. See attached detailed list.
  - An additional species with documented population problems, the longnose butterflyfish, is not on the white list but would experience continued collecting pressure since it is collected and sold along with its near twin, the forcepsfish, a white list species.
  - An additional white list species, the **Hawaiian dascyllus** (*Dascyllus albisella*), was proposed in September for listing under the U.S. Endangered Species Act because of threats to its habitat caused by coral bleaching and ocean acidification.
- As wild coral reef animals, hobbyists are unable to meet their complex needs, and the vast majority will die within a month of leaving Hawaii’s reefs. Even the yellow tang, described as a “hardy” fish by trade journals and online sales sites, suffers the same fate and, per 40 year industry veteran and author, Bob Fenner, “most are likely ‘killed off’ in the first month of care (from hobbyist mistakes, inappropriate tankmates, starvation...)”

#### Bag Limits:

All proposed bag limits are useless in restoring or protecting populations because they are available to an unlimited number of collectors and therefore allow an unlimited number of animals to be taken from the reefs.















### Conclusion:





















These are just some of the concerns we have with these regulations that fail to restore and protect fish populations and coral reef ecosystems. Because of the numerous environmental, culture and ethical problems and community concerns, we ask that DLNR put an immediate moratorium on commercial aquarium collecting until and unless the problems and concerns are addressed.

Rene Umberger  
Director, For the  
Fishes

**Summary of Concerns  
Proposed Rule for West Hawaii Aquarium Trade:  
40 Species 'White List'**

	Common Name		Documented Depleted Populations	Endemic Species	DLNR's Species w/ Greatest Conservation Need	Majority Die Within One Month in Captivity	Acknowledged by Trade as High Mortality / Unsuitable for Average Hobbyist
1	Yellow Tang ( <i>Zebrasoma flavescens</i> )		X			X	X
2	Chevron Tang ( <i>Acanthocheilichthys waikikiensis</i> )		X			X	X
3	Goldring Surgeon ( <i>Acanthocheilichthys strigosus</i> )		X			X	X
4	Achilles Tang ( <i>Acanthurus achilles</i> )		X			X	X
5	Tinker's Butterfly ( <i>Chaetodon tinkerii</i> )				X	X	X
6	Orangespine Unicorn ( <i>Naso salicinctus</i> )		X			X	X
7	Forcepsfish ( <i>Parcipiger flavissimus</i> )		X			X	X
8	Goldrim Surgeon ( <i>Acanthurus nigricans</i> )		X			X	X
9	Potter's Angel ( <i>Centropyge potteri</i> )			X		X	X
10	Fourspot Butterfly ( <i>C. quadrimaculatus</i> )		X			X	X
11	Yellowtail Coris ( <i>Coris gaimard</i> )					X	X
12	Ornate Wrasse ( <i>Halichoeres ornatus</i> )			X		X	X
13	Orangeband Surgeon ( <i>A. olivaceus</i> )					X	X
14	Bird Wrasse ( <i>Damphasus varius</i> )		X			X	X
15	Eyestripe Surgeon ( <i>A. dussumieri</i> )					X	X
16	Multiband Butterfly ( <i>C. multivittatus</i> )		X	X		X	X
17	Saddle Wrasse ( <i>Thalassoma duperrey</i> )		X	X		X	X
18	Brown Surgeon ( <i>Acanthurus nigrofasciatus</i> )					X	X
19	Flame Wrasse ( <i>Diplocheilichthys jordanii</i> )			X		X	X
20	Thompson's Surgeon ( <i>A. thompsoni</i> )		X			X	X

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21	Peacock Grouper ( <i>Acephalopholis argus</i> )					X	
22	Bluestripe Snapper ( <i>Lotjanus kasmira</i> )					X	X
23	Redbarred Hawkfish ( <i>Girihitsops fasciatus</i> )			X		X	
24	Psychedelic Wrasse ( <i>A. chrysocephalus</i> )			X	X	X	X
25	HI White spotted Toby ( <i>C. jactator</i> )		X	X		X	X
26	Fisher's Angel ( <i>Centropyge fisheri</i> )			X	X	X	X
27	Hawaiian Dascyllus ( <i>Dascyllus albisella</i> )		X*	X		X	
28	Milletseed Butterfly ( <i>Cheilodan milaris</i> )			X		X	X
29	Blacklip Butterfly ( <i>Cheilodan kleinii</i> )					X	X
30	Pyramid Butterfly ( <i>H. polylepis</i> )					X	X
31	Shortnose Wrasse ( <i>M. geoffroy</i> )			X		X	X
32	Black Durgon ( <i>Melichthys niger</i> )		X			X	
33	Spotted Boxfish ( <i>Ostracion meleagris</i> )					X	X
34	Blackside Hawkfish ( <i>P. forsteri</i> )		X			X	
35	HI Longfin Anthias ( <i>P. anthias hawaiiensis</i> )			X		X	X
36	Eightstripe Wrasse ( <i>P. octolinea</i> )		X			X	X
37	Fourstripe Wrasse ( <i>P. tetralinea</i> )					X	X
38	Smalltail Wrasse ( <i>P. cerasinus</i> )					X	X
39	Lei Triggerfish ( <i>Sufflamen bursa</i> )		X			X	
40	Gilded Trigger ( <i>X. auramarginatus</i> )					X	

\* Pending Endangered Species Listing

ForTheFishes.org, Dec. 2012

Dec. 05, 2012

Rene Umberger:

Now I'll read comments from Lynn Allen who is also from Kihei.

I am opposed to the White List and bogus bag limits because they are destructive to Hawaii's reefs and wildlife; and without limits on the number of collectors, they would still allow unlimited take of 40 fish species, all

of which are shrouded in controversy because they are a combination of the following points. They are endemic, they are depleted, and/or threatened by the trade, and they die within a month in captivity. In addition, the claim that these rules make the aquarium trade more sustainable cannot be substantiated as they are not based on sound science, meaning there is no scientific basis for unlimited take of species crucial to coral reef ecosystem health. And though legally required, the environmental impact of the trade has never been assessed. Without meaningful limits and enforcement provisions, these rules are nothing more than greenwashing. At 10 Achilles tang bag limit per day, last year's total catch could be met in just ten days if all 70 of the current collectors decided to cash in on their skyrocketing price. In 2007 collectors got \$6 per Achilles tang. Last year it was nearly 20. Who knows what they get today. But what we do know is this, that these fish are in trouble and this is an example of just one fish that should be pulled off that list.

If applied to 2011 collection reports, the White List would have reduced take by just 4,000 fish or about 1 percent of the total. Their revenue would have come down by just \$13,000 or .009 of reported sales. Impacts of the proposed size limits cannot be determined. Commercial data does not capture fish sizes. Take is unverifiable and the rules are 100 percent unenforceable because enforcement officers are unable to check containers without probable cause. The result, unlimited species and fish leaving Hawaii reefs for mainland aquariums. Compared to Australia which takes the aquarium trade threat very seriously; the Great Barrier Reef is massive with species diversity and abundance far outpacing Hawaii. It's the largest coral reef in the world. But tropical fish collectors are allowed to take just a tiny fraction of available fish. Hawaii is reversed. Aquarium take here is massive while our reefs are tiny. The take is overall several times higher than Australia's with 60 to 80 percent of some populations taken by the aquarium collectors. Compare it; West Hawaii's trade report recently was 349,000. It could have been double that. The Great Barrier Reef, the largest reef in the world, allowed just 134,000 fish to be taken in 2010. So what makes Kona DAR think that these reefs can sustain that level of collection when the Great 6 Barrier Reef can't. Thank you.

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Dec. 05, 2012

Hello, everyone. My name is Sean Jacobs, and I'm a waterman. My life is the water and my children's life is the water. My children are Hawaiian, I am not, but I learn from the Kanuhas and from the old man named Calvin Antai [ph] how to fish sustainably, how to take care of the reef.

I spend about six to eight hours of bottom time three days a week under the ocean, and I see all year long what happens to the fish. I see how they speak to each other like one of the scientists mentioned. I see how they react to the temperature of the water, to the currents, to the makani. When the wind comes, things change.

At what times was the research done and where is this research done, on which reefs, at what time of year, what kind of polyps were in the water, were there small crabs in the water, was it during the time of the lobster marches. They know nothing about any of this because they don't spend the time with the animals.

Where I dive it looks like a Cousteau movie, there is fish everywhere, billions of them. I never, ever spear fish that are too large, on the other hand.

The people that buy the fish from me, that eat the fish from me, they want it a certain size. They don't want it too big, and they don't want it too small.

There is a lot about fishing here in Hawaii and about the fish, about the reefs, about the corals, about the limu that people don't understand because they don't spend their time listening to the Hawaiians.

The Hawaiians understand because they want to keep living on their island.

This is not Easter Island. This is not someplace that got decimated by the stupid ass witnesses of people of that took no account of what they were doing. This is a place where the people for thousands of years have maintained their reefs. But when you start to see the people who are opposing and the people who are for this ban, it starts to look like a Republican and a Democratic convention. It really does.

Now, I'm hapa, I'm half white, and I'm half black, but I've learned to appreciate something here. And it has to do with color, it has to do with the attitude of people's color inside them. You folks need to understand that these people here are not brown, green, black, blue, or orange, they're Hawaiians. They're people who have studied and lived on these reefs forever.

Now, where I dive is mostly in Ka'u. Why, because yes, I used to dive here on this side, on the west side, I used to shoot 700 to 800 pounds of uhu a night. And my conscious told me stop that, along with Junior Kanuha, so I learned to listen.

And the word listen is an interesting word, isn't it. To truly listen, really listen, you're taking into account the spirit of a word of a people. What they really mean about their fish -- I almost died from diverticulitis about four years ago. I'm 52, and I hope I can make it to 92. But I'm thankful for the fish that I eat that I'm still alive.

I don't barely eat red fish, at least -- why, because the red fish that I give to other people seems to be the fish that leaves my house the fastest. I love my red fish, but I'm always giving it away to people, because people love their fish here so much; not only because it's tradition, but because it's healthy and because it's right.

So to tell people that they can't go into the ocean and use a tank, that's intelligence, that's modern world just like we use our cell phones and our smart phones and our GPS, you're telling a people that because they want to use modern equipment to do something efficiently and effectively and sustainably [sic] that they can't do it is wrong, completely wrong.

Let's take these rules, modify them, make them so they work for everybody especially, especially the Hawaiians. This is their land, this is their water, let's respect and listen to them. Listen to, like people say, the old fishermen who know, because they understand far more than just where fish are, in a certain spot.

Remember it's the currents, it's the wind, it's what's coming in the water from other places, and I'll say this one last thing. I dove the west side for years, and now I barely ever dive it. Why, because there is less fish, and I felt as though maybe I should dive down someplace where there is. And that's what I do, and I do it sustainably.

I took a small ride in my boat on the west side from Kiholo Bay all the way down to Miloli'i, and there is a huge difference. There's mosses growing on the reefs that were never there before. I've been here 27 years, and I've seen things change. And what has changed definitely is the climate of the people and the people less and less seem to want to be interested in what's going on with the nature of the people that were here before us.

Let's sustain their life-style. That way you folks that want to wear the aloha shirts, you'll have a Hawaii to look at fish, and you'll have Hawaiians in it because there is no such thing as Hawaii without Hawaiians and their ways.

~~~~~  
Dec. 05, 2012

My name is Tracy Kubota, and this is my testimony.

Listening to the comments tonight -- I'm from Oahu, but I fish in this area of West Hawaii. I watched legislation many years and rules and regulations over time with respect to fishing and fisheries management. And you know, I know I have to state, I oppose this rule package as a whole. A lot of times we have people who are passionate, and I give the credit to everybody who has had time and energies put into this whole effort to be able to create something that they feel is right for, not just the environment but the users and the takers and everybody as a whole.

But listening to everybody here tonight, I feel that it should be a more fair and comprehensive approach to resource management. Act 306 was put together at a time -- of course you have a lot of user conflict, and it was put together to manage user conflict for one of the reasons. A lot of it that was stated in there, as far as other management responsibilities was interpreted.

Setting a 30 percent minimum closed area - I think the verdict is still not out yet on closures of fishing areas and the way it's managed and how it works. Some people say that it doesn't work because it places an unfair burden on other resources. Some say it works, like Hanauma Bay. Now, people have all their different opinions of Hanauma Bay. So setting a 30 percent minimum is an arbitrary number. It could, couldn't work, but I don't feel it's been vetted enough. I don't feel the science has been proven to show anything that requires that.

So when you look at other proposals like the SCUBA spearfishing. Current regulations on the book already state that there is bag limits, size limits that restrict fishermen in many ways, season of closures and everything else they testified to that said how fishing is restricted. This regulation makes something illegal more illegal. I mean if you are going to take 15 fish and that's your limit, that's your limit. Whether you put on a SCUBA tank and go and take 15 fish or you spear it without a SCUBA tank, all it does is makes it harder for a person to take their 15 fish so it's already a restriction in the books.

The possession issue of the SCUBA spear makes it difficult to enforce. It makes anybody who has a SCUBA and a spear on their boat automatically illegal. It's automatically a violation. It doesn't matter what you use it for if you didn't use it, and I think it's a really poorly written regulation if it's passed in such way.

You know, to force an aquarium industry to compromise something because of fear, they fear being banned outright, they fear being restricted beyond what they can handle as a business. It's a dangerous thing.

These are all emotional things, these are all passions, but I think as a whole the problems here that everybody is talking about is the result of the fact that it's opinion based and really not science based, empirical-knowledge based. It's input that's not given as a whole to be able to vet the rules properly.

If you're a farmer and somebody tells you how to manage your farming area because they don't like pesticides so they go to the department and say, okay, we got to ban pesticides. And this one group just vehemently opposes it. Farmers are now going to be restricted from using pesticides to manage their crops, just because one group of people feel that. Is that right? Did they consult the farmers?

Does it affect the livelihood? What does it do? We can go on and on with examples, but I just feel that if you don't allow for the process to be vetted properly and you don't have the department play the proper role and use the resource managers hired to manage the resource, the biologists who are hired specifically to do their job to be able to determine, first, if there is a problem. We don't even know. Everybody thinks there might be a problem. If there is a problem, there is a problem. It has never been stated that there is a problem. If you don't have that problem stated outright by the resource managers, then why we do have a need to have to

find ways to restrict and further restrict if we don't even have the problem stated.

So I think we need to go back to the responsibility of the department for them to do their due diligence to serve the State as a whole and to get the input from the people as a whole because you're managing state waters and state waters observe all.

Thank you.

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Dec. 05, 2012

To Whom It May Concern,

I am writing this letter out of concern for the Proposed Hawai'i Administrative Rule §13-60.4. While it seems to be a valiant attempt to protect the rights and interests of stakeholders it is lacking a realistic view of the impact it will have upon our reef and other marine resources along our fragile Kona Coast.

Being involved with marine conservation for the past 20 years I learned from a lecture by Dr. Bill Walsh that because Hawaii Island is the youngest in the archipelago the reef shelves are narrow and are able to support a limited amount of fish and other marine life. Even novice snorkelers can see that there is a steep drop-off after swimming out only a short distance from shore. A testament to that were recent reports that fishermen were catching mahimahi from the shoreline.

As a fisherman I have dived along the South Kona Coast for miles and can attest to the fact that the reef shelves are narrow and subsequently support a very limited amount of fish. I have seen pelagic fish from the shoreline and trolled for ono (wahoo) sometimes only 30 yards from land. The point I am trying to make is that our reef ecosystem is fragile and without proper monitoring and management the large scale harvesting of any marine life will have a strong negative impact on our fisheries, economy, and culture.

I am sure that people are tired of hearing of how the Hawaiians sustainably managed their fisheries for hundreds of years. They understood the meaning of limiting harvest to ensure that the resource would be able to replenish itself every spawning season. Punishment for violations at that time are considered to be extreme today but then a deterrent to irresponsible harvesting should be severe enough to be effective, otherwise any rules or regulations are a waste of time and effort.

From the time that the FRA's were established the AQ collectors have been violating the law starting with then president, Pete Basabee. Occasional sightings of collectors in the FRA's day and in the night have not been investigated. The recent prosecution of collectors who were apprehended fishing in the Hookena FRA was bungled by legal authorities and sends a message to

collectors that punishment and fines for violating our laws "has no teeth" thereby encouraging continued illegal and disrespectful practices by the Aquarium Fish trade. It also sends a message to our local communities that government is not looking after their best interests due to ignorance, personal reasons, or that they are being purposely biased in favor of commercial interests because it generates revenue for taxes.

Why is DOCARE so underfunded? Why are there only two officers to monitor and respond to violations for hundreds of miles of forests and ocean? Why keep making laws that are impossible to monitor and enforce? How will DOCARE check for violations and regulate this industry? It is better to ban the practice that has very little or no benefit to the majority of the people who live here. Better to leave the fish for the thousands of subsistence fishers who feed their families and for the tour companies who bring thousands of visitors here to look at and not extract the resource that makes Hawaii an important tourist destination.

Proposed Hawai'i Administrative Rule §13-60.4. will create the false sense of security that there are rules in place to protect our resources but it will be business as usual, collectors taking hundreds of thousands of fish from our narrow shelved fragile Kona Coast until one day the resource is so depleted that they will be forced to move to another fragile ecosystem to ply their trade. What about us?

The "white list" does not protect the fish that Hawaiians and other local people eat. Pakuikui, manini, kole, nenu, u'u, aholehole, aweoweo, upapalu, mamala, etc. Also, scientists say that every species plays a critical role in reef health. Is it ok to remove hundreds of thousands of fish that have evolved in the Kona reef habitat for hundreds of years? Man always tries to find remedies for irresponsible activity that ultimately changes nature in a negative way. The mongoose and mongoose, are just two examples.

Stop tropical fish collecting until they can prove to us that there is no negative impact. Why try to please a few at the expense of thousands of other people who have lived here for generations and call Hawaii home.

Sincerely,

Damien Kenison Sr  
Hookena Beach, South Kona, Hawaii

~~~~~  
Dec. 05, 2012

Aloha, my name is Joy Keawepuakokawehiku Mills. I was born on the island of Oahu. I moved here several years ago, but my family is from here. I am and



my family have always been dependent on the ocean. We are ocean people. And I applaud those of you who have come to speak.

As my father would say, Joe Mills, he would say if you don't say or write down your piece, then you cannot grumble. Whether you say it in perfect English or you say it in da kine, I don't like, main thing you say something.

And I got to tell you this whole bill in my heart of hearts is not pono. There is a lot of things about it that, yeah, maybe is good, but in other ways, auwe, a'ole. It does impede a lot of our Hawaiian collection for our families to eat. We are reliant, my father was a fisherman, as I said, and I have a little bit of that skill, but not as much. But I appreciate my brothers and sisters who fish and rely on the ocean to feed their family. So in that respect, you need to relook at how this bill is written.

I also have observed a lot of ocean activities in my life. And yeah, a lot of our visitors come to look at the fish and appreciate our aquatic beauty here, and for that we need to take care of that as well. But to say that one is better than others is a'ole, that's not right.

You know, I also observe what DLNR does. I appreciate what they do. However, with our budgets nowadays, and a lot of us have gotten cuts and stuff, can we honestly say that DLNR can really uphold these laws and these regulations.

As far as the gentleman that says the crown-of-thorns, I picked up over 20 within a quarter mile of Kahalu'u, so I do protect the shells that I know very few, actually, consume those.

What I do want to see is more protection of our rays and our mano. I think that those are beautiful creatures that we need to really take care of because they rely on us, they all rely on us, and we're doing them a bad justice. We really are.

What I really want to see is less rois on our reef. Those don't belong here. I don't know why they brought them in. They're okay to look at, but they're useless and they takeover our reef. And I see more and more of those.

You need to clarify more of what you are protecting in your aquarium. My fellow reef teachers here told me that they are protecting our puhi. I believe our snowflake eel is one of them that's on the protected list, and I'd like to see that because I think those are worth several thousand on the market.

You not going to eat those. Those need to stay in the ocean. I see more of those in the tanks, but I'd rather see them in the ocean because that's really where our -- we all want to be. We all want to be enjoying it, either surfing on it and looking underneath and seeing the yellow tang and seeing all the ulua once in a while, maybe a honu, that's why I came here.

I want to see that, but also I like my uhu, with the bok choy. It's really good.

So I'm going to tell you in my heart of hearts you need to really relook at it. I'm against it. It needs to be reworked, and you need to talk to others besides the people who have all the degrees. Because we're Hawaiian, we have it in our blood, we protect, no matter what, it's in our koko, we take care of it, we don't need to be told yes or no. We know better. It's the people that come here need to learn. That's the ones you guys got to educate.

Mahalo.

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From:  
Ramona & Tony Amoguis  
Kailua Kona, HI 96740

December 6, 2012

To Whom It May Concern:

I cannot support the recent WHRFMA Rule Proposals on the basis that it heavily favors aquarium fish collecting over traditional (free diving) spearfishing.

- **If one group cannot use SCUBA because it has been shown to deplete the reefs of fish then this rule should be applied to all groups.** Why is it proposed that aquarium fish collectors are allowed to remove fish from the reef using SCUBA yet local spearfisherman are not? I have looked over a lot of research and it does show that reefs tend to get overfished when populations start using SCUBA instead of traditional fishing methods. There is also research that shows reefs are overfished by aquarium fish collectors as well (see enclosed paper "Effects of Aquarium Collectors on Coral Reef Fishes in Kona"). **Therefore the rule should be that no aquarium collection/spearfishing can be done with SCUBA (or SNUBA).** This would allow the local spearfisherman to continue their traditional methods of spearfishing (free diving) which for centuries have been proven to be sustainable.
- **The rule proposal for the white list and size/bag limits mostly reiterates what the aquarium fish collectors are already doing and doesn't seem to limit the practice of collecting significantly even though "aquarium collectors have a significant effect on the abundance of targeted fishes" (Effects of Aquarium Collectors on Coral Reef Fishes in Kona, Hawaii).** These proposals may be a step in the right direction (any regulation is better than no regulation) but this is bordering on no regulation.
  - The white list proposed includes 99% of the fish aquarium collectors catch already (as mentioned in the Small Business Impact Statement by DLNR) so there is basically no difference there. I find it interesting that the list was increased from 25-40 because of "response to input from Big Island aquarium collectors". Isn't that like letting the fox guard the henhouse? Although I do support that it does (at least on paper but not enforceable) keep collectors from taking the more rare and higher priced species.
  - The size limits for yellow tang are the ideal size that collectors want (2-4 inch) and collectors can take

an unlimited amount of this size. The only change in this rule is that they may not be able to collect larger fish which are not as desirable to a majority of collectors as the medium size fish or collect small fish which have a higher mortality rate and don't fetch as good a price as medium sized fish.

- o Kole also have no bag limits under 4 inches (which is the preferable size for collectors) to preserve the adult breeders but how can you increase a population by allowing unlimited capture of the babies? Who replaces the older breeders if the immature fish are captured before they get to that size?
- o Pakakui are limited to 10/person/day. Many collectors have between 2-4 people on board (some more) and dive 5-6 days/week. And with 70 collectors (as cited in the Small Business Impact Statement by DLNR) that would be about 16,800 Pakakui potentially collected each week in West Hawaii. Does that sound sustainable? Do you think spearfisherman using traditional methods (free diving) would be able to spear that many fish in a week?

I agree with the majority from a recent Humane Society of the United States poll that showed two-thirds of Hawaii residents say they support banning aquarium fish collecting. That's the only enforceable settlement to this problem.

- **How will these proposals be enforced?** Maybe this is not the forum for this but it has to be asked. No budget for enforcement? Do like other places have done and require fishing permits that pay for staff to enforce these laws.
- **Finally, when thinking of this issue we need to think of what groups we want to perpetuate: traditional (freediving) spearfishing and the "\$35 million" ocean recreation business (and more if you add the whole tourism industry that depends on Hawaii's beautiful ocean flora/fauna) that benefits from having an abundant fish population. Not the aquarium fish collectors or the SCUBA spearfisherman.**

Mahalo Nui Loa,



Ramona Amoguis

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Dec 05, 2012

I normally do not sit down when I preach. I preach for two hours so are you ready for me tonight. Not really.

I'm Kahu Akahai, seventh generation of King Kamehameha I. This is my islands of Hawaii. When I say this is my islands of Hawaii, na ka po'e Hawai'i Nei. We are the people of Hawaii.

I am an ambassador of peace, and I do travel the world. I speak with a 194 nations and hold conferences where politicians dare not to go. I've been in and out of Korea. I love the people. I love everybody. But when they do wrong, we need to make right. Make the wrong right.

I'm not in favor of the DLNR. They have dragged me through court, and I got the document over here. I'm just going to read the last, what it's saying here.

The judges of the appellate court; we vacate the final judgment filed by the district court of September 30, 2011. We remand the case with instructions that it be dismissed for lack of jurisdiction.

DLNR now do not have jurisdiction in Hawaii and neither does the State of Hawaii. I want you folks to understand that we have rules. Our Hawaiian rules supersede the state rules. And my people of Hawaii has all the rights to speak out for what is pono and/or you're not listening, but I am not in favor of the rules that is being made. I want to modify those rules, and I think I need to have all of my Hawaiian people who are fishermen who need to have this modified to come together and to speak to these people who tries to close your life-style in Hawaii.

It's not easy to travel as an ambassador. I represent everyone here in Hawaii, from the Island of Hawaii to the Island of Ni'ihau. I am the only ambassador for peace in Hawaii Nei. And I want to bring peace with this fishing piliki'a that we have.

The problem, we have too many people who don't understand what the Hawaiian people need to do. All of you who think that you have the upper hand because you have gone to college or you have gone to different states of education -- I am retired from the Board of Education, Konawaena High School, but I don't use that for what I love here in Hawaii.

I love my fish, and now even though if I cannot go down and throw my net or walk into the ocean, I have my kamali'i, my children, do that for me. And I want them to have that freedom that I had and dare you to try and take it away.

I walk with my God, and when I am angry, He's going to do something drastic. So I want the DLNR to sit down and get their act together and to know the jurisdiction that they have, not the jurisdiction that they assume that they have because they carry a belt with their guns and rifles to come onto my property.

No, no, no, no, they're not going to go down to the beaches and do that to my Hawaiian people. That is what we need to look at. They don't need guns to go down there, but they do.

So I'm going to let you folks know that what I'm saying here comes from the appellate court, that they don't have jurisdiction, and Alapai kanaka will not give you the jurisdiction. We should not give you our rights.

So I say mahalo nui loa for giving me the opportunity to be here tonight, nau Ke Akua, ehopo [ph] maika'i, aloha.

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Dec. 05, 2012

Hi, my name is Robert Duerr. I'm a 25-year writer for Hawaii Fishing News. I've been following this issue, and I'd like to read into the record that there are a number of problems and serious problems.

The first problem in looking at the Act 306 is that the West Hawaii Fishing Council has perhaps not been abiding by its bylaws. The bylaws state that directors need to have a two-year term, and then they can have another term. The chairman is to have a three-year term with rotation. It's my understanding, talking to Mr. Gingo that he's, in fact, been a chairperson for eleven years.

I'd also like to say in getting the information on what science is available, and specifically I'm talking about the spearfishing ban but there may be other issues, and what science is available, but quite frankly on a spearfishing ban, I can say that there is very little.

I have a background in proposed Hawaii Administration Rules which was given to me, and I have a NOAA paper that was written in March 2012. Neither of them support with science the fact that there is a spearfishing SCUBA problem or that there should be a ban. The ban was, in fact, only one of seven proposals that were mentioned since the year 2001.

I'd like to bring a further problem up, and I think this gets to the heart of the matter. And this is a small business impact statement, Department of Land and Natural Resources proposed amendment to Chapter 13. In it, it states, this is the piece of paper that goes about economic impact on regulations in the State of Hawaii. It says that 16 commercial fishermen engage in SCUBA spearfishing. Those 16 commercial fishermen, in fact, generated in the years 2007-2011, \$35,000. I talked to Chairman Gingo at the beginning of this meeting who told me that's foolish, we know that number is wrong, if we know the number is wrong why is it in this paper.

I think I'm speaking here for a man who's mentioned in this background of proposed land administrations, Mike Sakamoto. Mike Sakamoto was a fisherman, activist, and loves resources. In this he says he does not support a ban of sportfishing. He supports regulations, limits, and bag limits and size limits. And quite frankly, I think you need to go back.

If this is, in fact, a package going to the land board, this package needs to be filled. I think what we have to understand is in this past election the County of Hawaii has put in the county charter that resource management and game management was supported by 60 percent of the people.

Unless you are dealing with resource management with science and with plans, a ban is not a plan. A ban is not science. It is the easiest way and it is stated in the background in proposed Hawaii Administration Rules.

I think the other question of vetting and not being -- fishermen have told me, and quite frankly, I did not believe them because I did not have the support that they had been, in fact, not wanted at the West Hawaii Fishery

Council. I think tonight we're seeing more evidence that perhaps that is, in fact, the case.

The mayor of this county needs to understand that, as well as the people in the land board need to understand this. I make one suggestion, to fishermen and people who are supportive with resources here.

When you come to your next meeting, come with an attorney.

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**STATE OF HAWAII**  
**OFFICE OF HAWAIIAN AFFAIRS**  
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HONOLULU, HAWAII 96813

December 19, 2012

William J. Walsh, Ph.D. Division of  
Aquatic Resources Department of Land  
& Natural Resources  
74-380B Kealahou Parkway  
Kona, HI 96740

**RE: Testimony for Proposed Rules for the West Hawai'i Regional Fishery Management Area**

Aloha mai Dr. Walsh,

The Office of Hawaiian Affairs (OHA) offers the following comments on the proposed repeal of chapter 13-60.3, the adoption of chapter 13-60.4, and amendments to chapters 13-54, 13-57, and 13-75, Hawai'i Administrative Rules (HAR), for management of the marine resources within the West Hawai'i Regional Fisheries Management Area.

OHA commends the Department of Land and Natural Resources (DLNR) and the Division of Aquatic Resources (DAR) for its initiative in managing the marine resources of West Hawai'i. The sustainable conservation of nearshore aquatic resources is an important component of the state's public trust responsibilities, and OHA recognizes the importance of these resources to Native Hawaiian cultural and subsistence concepts and practices. OHA also expresses its appreciation of the extensive, multi-stakeholder discussion and consensus building facilitated over the past ten years by the West Hawai'i Fisheries Council (WHFC) to develop the instant rule proposal. Finally, OHA appreciates the broad range of background information, including

the ongoing research focused on West Hawai'i specifically, and research relevant to Pacific coral reef ecosystems generally, that is provided or referenced in the documents accompanying the West Hawai'i rule proposal.

With respect to the SCUBA spearfishing prohibition contained within the proposed rule package, OHA respectfully requests that some further consideration be given to those who have a bona fide need to utilize SCUBA gear to harvest marine resources for subsistence purposes. Such consideration may be made in the form of an expressly recognized affirmative defense to enforcement actions for bona fide subsistence practices, the imposition of subsistence-level marine life take and possession limits for those utilizing SCUBA gear and spears, and/or an optional permitting or registry structure that may recognize individuals' subsistence practices in advance, and outside of the criminal defense context.

OHA notes that much testimony has been submitted in regards to the possible impact of a blanket SCUBA-spearfishing prohibition on the subsistence practices of local families in the West Hawai'i region. OHA also notes that representatives from beneficiary communities in certain areas, such as Miloli'i, have voiced contrasting concerns regarding SCUBA spearfishing, and spearfishing at night, as detrimental to their subsistence lifestyle and the resources they depend upon. OHA is aware that the regulation of SCUBA spearfishing and spearfishing at night, have been topics of discussion within the WHFC and West Hawai'i communities since as early as 2003, and commends the WHFC in their efforts to find a community-based consensus on this sensitive issue.

OHA believes that the constitutional responsibilities of the state with respect to protecting and enforcing the traditional and customary gathering rights of Native Hawaiians requires the affirmative recognition and protection of bona fide cultural and subsistence practices. Such affirmative protection may also require the regulation of such practices to the extent that they may impact the availability of cultural and subsistence resources for future generations. However, to the extent that harvesting resources using SCUBA gear and spears may be necessary for the present subsistence needs of certain individuals, OHA believes that a more narrowly-tailored approach may accommodate the needs of these individuals, while respecting the resource and practical enforceability measures that are reflected in the proposed prohibition.

Mahalo nui for the opportunity to comment on these rules. For any questions or concerns, please contact Wayne Tanaka, Public Policy Advocate, at 594-1945 or via email at waynet@oha.org.

'Owau iho nō,

Kamana'opono M. Crabbe, Ph.D.  
Ka Pouhana, Chief Executive Officer  
Office of Hawaiian Affairs

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Dec. 05, 2012

My name is Sherron Bull. And I hadn't planned on this, but I came here to talk about the aquarium collection, and I hadn't really paid a lot of attention to the SCUBA because I didn't really know about it before I got the notice in the mail. I really came here about the aquarium collection.

I don't think sustenance fishing should even be part of this, and it's become the main part of it. And I understand why, but, you know, I don't think these two things really should be in this together.

I mean people that have to fish for a living should be able to fish, and I think that the aquarium collection should be banned, totally. I mean all these fish are going -- and there may be a few of them that go here in Hawaii, but most of them are not going to Hawaii. They're going back to the mainland, a lot of them. And like the kole that you eat, there is a lot of them going there. Especially for something that you eat, I don't think they should be allowed to collect them.

And I don't like this bill. Now that I know all about the SCUBA thing, I'm not real fond of that either but I didn't like it because of the White List. I didn't think that a lot of the fish on there should be on there, besides the fact that I just think it should be banned all together.

And I don't like the way they collect them. I don't like what they do to the fish. I don't think the fizzing, puncturing their bladder, trimming their fins.

I just don't like the way they treat the fish. I don't think it's right. And I don't think they should -- these fish, most of them, die. They don't live very long. They don't live like they do on the reef.

And we do vacation rentals and people come here because they love the fish. They want to see the fish. That's what really drives them here and they love it. And we've been coming here for 36 years, I mean until we moved here. We're not native either. And we've seen a decline in the fish on the reefs. I think it's obvious if anybody, actually, looks around. There is a lot less fish on the reef, there is a lot less tang on the reef.

I know everybody keeps saying that they're all around, and if you go to the FRA, yeah, they are. And you know why, because they don't let them collect them. Gee, surprise. But if you go someplace else, there is not as many. And I just don't see why we should cater to commercial entities, and I'm talking about commercial entities that come and collect the fish and take them offshore and make all this money and we get nothing from it, and we lose because we lose the tourism.

And I really think that it needs to be -- the bill needs to be -- or the proposal needs to be changed to split this thing with the sustenance fishing because that's really something different, but I do really believe that we should just totally ban commercial aquarium fishing. That's it.

~~~~~  
Dec. 05, 2012

Aloha, kakou, everyone. My name is Mike Nakachi, kanaka maoli to the land, originally from the ahupua'a of Waimanalo on Oahu, malihini here to Moku O' Keawe. Real quick, everyone talks about all this stuff. This is all



bunched in and we've got kerosene, we got gas, and we just threw the match on this whole thing. And it's real obvious to me because DLNR, the Board of Natural Land and Resources, and DAR has first and foremost a responsibility to who, the public, number 1; number 2, cultural; number 3, commercial interests, okay. That's tropical fish collectors should be on the bottom. So who's on the top, huh. So now here we go. We're breaking out all this stuff, we're throwing it all in one thing, and we're saying here, here you go, West Hawaii, do we accept it like this. There are certain things, yeah, that are pono, and there are other things that are not.

Item 1, spearfishing on SCUBA, hmmm, 1993, a provisional fish working group, I was a part of that. Somehow it morphed in 1999 that I became a part of the West Hawaii Fishery Council. I never had to fill out any palapala. I never had to do any application, but boom, I was in. Uncle Junior Kanuha, we're in, Frank Ota, we're in, we going. So now, why we going support this. I know braddahs in this room that manuahi, they catch and they give to the kupuna that cannot go. Some of them might be on SCUBA. So now, what, we're going to penalize them. I understand that, hey, this is the right thing, but it hasn't been vetted properly. Our illustrious leader from West Hawaii Fisheries Council, Glennon Gingo, said, hey, braddah, come join me. I don't think that's too good. They're not there anymore. We're out of fishermen on that West Hawaii Fisheries Council. They're not there. Some have passed away. Some have moved on. So going to point by point, I cannot support the spearfishing on SCUBA.

When it comes to the respect of the species White List, I think it's a direct violation of the Hawaii Environmental Protection Act, allowing a commercial interest to supersede all the public interest. So collecting of tropical fish, is it a pono thing, is it a Hawaiian thing, is it a kanaka thing.

THE AUDIENCE: You used to do it.

MR. NAKACHI: Who used to do it?

THE AUDIENCE: You.

MR. NAKACHI: No, I never did, never. I never owned a permit. So whoever is waha nui back there, shut it. So I never did tropical fish collection. And for a fact I know people that used to collect that do not support the tropical fish industry anymore. Furthermore, when it comes to respecting our 'aumakua and the hi'i mano, why isn't the manta rays on this list. You know why, they knew it was going to take so long. When I was a part of this original thing, here we are 14 years later, 12 years later, and we're discussing this now. Shouldn't have taken that long. Something is wrong with the process, something is wrong there.

But to make it real short I cannot support this entire thing in its package. But with regards to mano and hi'i mano, I want to see those protected.

Mahalo for your time. Thank you.

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Dec. 05, 2012

Good evening. Aloha, everyone. My name is Rick Wilson, and actually, when I came in here tonight, I wasn't planning on saying anything but talk with the gentleman at the door prompted me to do so.

I first came to the islands in 1967. I had a dive business in Honolulu in the late '60s, early '70s, I saw what -- that's when commercial aquarium fish catching first began. I saw it happen, had guys coming in my shop that did that. I thought it was kind of a passing fancy. It was like I just couldn't believe that that was happening. And now to look and see where commercial fish catching has gone and the amount of fish that's taken off of our reefs just really kind of blows me away.

With respect to the rules, regulations that are being formulated here, first of all, I do commend everyone that's participated in this process over the last 10 or 12 years. I, actually, was involved back in the mid to late '80s in setting up the anchoring systems for the boats to help restrict the amount of destruction of corals. So I've been around the ocean a long time. I was a commercial diver myself in both the North Sea and the Middle East, been around the water quite a bit.

However, I am against this spearfishing ban. As many have said here very recently in their presentations, I don't think it's right to ban the taking of fish on SCUBA. I do agree that nighttime taking of fish on SCUBA, it shouldn't be done. And I've always kind of felt that the people that did that weren't very qualified to be out doing it. I mean if you're going to take fish, put some sport into it. It's pretty easy to shoot an uhu that's sleeping under a rock in the evening. But a lot of us do take fish from the ocean. As one gentleman just mentioned here recently, as we get older, our lung capacity is not what it used to be. I can't dive nearly as deep as I used to free diving, but I would like to at least some kind of modification, if not an outright -- I don't want to see a ban on SCUBA spearfishing. If you want to modify the regulations, modify them in such a way that you can limit nighttime taking of fish on SCUBA, at least make it all right for recreational home consumption users to be able to take fish.

I don't know how many of you out there dive, but no, you can't go out to 30, 40, or 50 feet free diving and poke fish. It's real hard to do, and it's dangerous. I've had friends here in the islands that have died from shallow water blackout because they were trying to dive too deep and it doesn't work. So whereas I do support some aspects of the regulations here tonight, I do request a modification of the ban on SCUBA and certainly allow us that use the ocean for our own food consumption to be able to go out and do that. That's only right. Thank you.

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Subject dec. 5 meeting

From: david brown

Date: Wednesday, December 5, 2012 1:38 PM

Good evening....

My name is Puna Brown and I am a tropical fish collector and commercial spear fisherman. I have been one for over 20 years. As for the total ban of scuba spearfishing, I am opposed to it. It is my living and the way I feed my family and help feed many other families.

One of the main fish I target is the Roi peacock grouper since I have a market for them. As we all know, the Roi bass is an introduced problem here. I am sure you have heard of the many "Roi Roundups" on most of the islands. The Roi inhabits the shallows all the way to the deep.....beyond free diving or scuba diving depths. Any fisherman diver that understands the make-up of our reefs here knows that you will find the Roi Bass at any given fish house. The Roi eats all the "house" fish including Koles, wekes, upapalu, and pretty much just about anything. This is why some of the locals have taken it upon themselves to regulate the Roi bass through these non profit round ups and tournaments. This is one species that needs to be kept in check!

Overall, scuba spearing is an important part of the sustenance and lifestyle here. What a lot of people don't realize is that a lot of the fried fish we eat at luaus and parties and reef fish that we like to buy in the stores is provided by us local scuba fisherman. We as local fisherman have been taught to regulate and not to over harvest. The total ban of scuba spearfishing is ridiculous and unfair. But I do believe that all of our resources have to be regulated if not by law but at least at a personal level. There was little that I know of as far as communication with the fisherman on this topic of scuba spearfishing..... The experts in the ocean are the fisherman. They see and know things that the scientists and doctors don't see only because they are there everyday. I have heard it put out that it was a conflict of interest. There needs to be more cooperation between all parties involved instead of one sided statistics. I believe and KNOW that all sides could learn a lot from each other.

A fisherman is like a farmer. I don't think one choses to be one. I believe one is born to be a fisherman, a farmer. Its hard work but its honest work. I don't know any rich fishermen or farmers!!!! Also, I mean, I don't wish for any of my children to be what I am, a fisherman. I want them to know how to catch fish to feed them and their families but I hope for them to have an easier life than me. There are a lot more scuba fishermen here in the Big Island but you will probably never see them or hear from them. Most of them are terrified to come in front of a crowd and speak. So in ending, please take into consideration us local fisherman and our life.....aloha!

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Dec. 05, 2012

Aloha. My name is Wesley Murakami. I'm a member of the Pacific Island Fisheries Group throughout the State of Hawaii. They're right, they put, roughly, in 2000 WESTPAC with Sea Grant along with the West Hawaii Fishery Council.

At first when I came in, I was thinking about, oh, what I want to say with all this buildup through the years and whatnot. But the bottom line is, for the record, I don't support the rule package, not all of it anyway.

Some of you folks out here touched on really important, I guess, issues. Issues is like the change of -- living in Hawaii for us people born and raised five, six generations. It's not only coming to this type of meetings because everybody has knowledge that they want to share. And believe it or

not through all the years in the meetings that we've gone to, this is the biggest turnout I've seen yet in Kona.

Whether you're for it or not, but anytime in rule packaging what I've seen is there is a lot of unbalance, and it's with not enough knowledge from the correct people or misinterpretation. And when I say misinterpretation is -- for the Hawaiian people, my family is from Kaloko, I'm born and raised in Hamakua, listened to many of what you call stories about Kaloko fish pond and things that a lot of you folks been here 20 years, 40 years don't know. But you can be here 20 years, 40 years living on Oahu with family in Kona and know exactly what was and what is now.

And by looking at everything, what I mean is collaboratively working together, not a one-sided type of entity because when we look at rule packages, you look for what's the greater good of everybody, not only one side of the island.

Yes, the West Hawaii Fishery Council, I can speak for, about 12 years ago when I was doing the HMRFS project had a lot of people and members at the time, and it was definitely more malihini than locals. Eventually, through the years the thing kind of dissipated and became what it is now. But through the years what I've learned is by able to talk to everyone by getting all the information to the people who was willing to give it and making the correct decisions within the state when it goes to the board, that's what's important.

And everybody needs to participate. Everybody in this room needs to be a participant because our life-style is changing, and when it comes to the ocean, like I tell everybody, go and read, what you call, the Hawaii Constitution. It's 187A-21, public fishing grounds and what rights we have being born and raised here in Hawaii.

We're not here to sway anybody. All we want is the state to hear us, and that's everything that they did is wrong, but they need to go there and make the corrections and make the rule package to where it can serve everybody, thank you.

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Dec. 05, 2012

Aloha, my name is Tate Marks. And I'm no marine biologist, I'm not one scientist. I'm Hawaiian. What you guys doing is not pono. That's not how we do it here in Hawaii. You guys don't just come go over here and all of a sudden you making decisions that affect only the local people. Only the local people, not you guys. You guys don't eat that fish. You guys don't survive off this type of life-style. We do.

We've been here since 3000 AD. We survive off that, okay. I am Hawaiian, I have koko, I have that right as a native. You guys don't. You moved here, okay. It's absolutely not right that you guys are trying to take away everything that Hawaiians have been working for thousands of years. Okay.

And I don't really care about the tropical fish. You do what you want. But I'm a commercial fisherman, I'm a Hawaii practitioner, and I feed my family with the ocean. My family has fished for over a hundred years. I'm the fifth generation fisherman, so is my brother, so is my kids, so will my grandkids be. My father is 75 years old. He never did nothing but fish, never had a secular job, never did nothing but fish.

Everybody thinks Bill Walsh is a scientist, he has a degree. I get more sea time in the water than him and everybody here put together. My father is 75 years old. How much time sea time do you think he has? He can tell you everything you guys trying to learn from Bill plus more.

Now, I'm relying on what I know as a Hawaiian practitioner and a diver and a fisherman. And where the fish stay, I know how to get them. All you guys' stories is bullshit. I know that for a fact because I see it every day. All you guys saying all this stuff about this scientist and that scientist said, I see it every day with my own eyes. I don't read it off the Internet. Okay. All my information is fact, not hearsay, and I can prove my facts. All you guys stuff is just read off the Internet or you read somebody else's paper. And as a practitioner and a Hawaiian, I volunteer my time, my boat, and my money. I show you where the fish is. I take anybody here. You guys want to see the fish, you tell me what kind of fish you want to see, I'll show it to you, okay.

I am deadly opposed to the spearfishing ban. That's how we survive for hundreds of years, okay. Now, you guys only making bills that affect only us. That's why you guys don't give a shit about this bill because you guys don't eat reef fish, okay. Think about it. We didn't move to America and screw with your life-style. Don't come to Hawaii and screw with ours. Leave the Hawaiians alone.

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Dec. 05, 2012

My name is Randy Clark. I live up in Waimea, and I'm a longtime ocean man. I see a lot of familiar faces out here and some friends that I haven't seen in a long time.

I've listened to all the testimony of everybody. You know, we're here because we want to preserve what we have, whether we're visitors, kamaainas, fishermen, aquarium fishermen, we all use the ocean so what is the best way to do it. You know, the public forum is designed to do that, but in the end we don't make the decisions because it belongs to these guys on the board taking in all the information.

Presently, I'm an interpretive ranger down in Kiholo Bay, and I've had the opportunity to work with a lot of marine conservationists from federal, state, and county agencies, as well as the UH EPSCOR group and a bunch of non-profit groups. And we're all working hard to preserve that one bay that's just part of the whole West Hawaii marine area, but it's such a big challenge because you have to start with the water quality that produces the

limu that the small fish feed on, that the larger fish feed on them, and then of course, the bigger predator fish like the uluas and everything that come in.

So it's a difficult challenge for all of us. And so, you know, we're all trying to work together, but at the same time these proposals that are being made I cannot support them in its entirety. There is need for a fishing management in the different areas that are mentioned, but what's the best way to do that, you know.

Aquarium fishermen and the fishermen, I sit at Kiholo Bay, and I document when they come in Thursday. They camp overnight Thursday night. They fish all day Friday. They camp overnight Friday. They fish all day Saturday. They camp overnight Saturday, and then they leave Sunday at noon. So that's three nights and almost four full days of aquarium fishing in the zone. You know, I document that, and I send it to the enforcement agencies, and we all know that the enforcement agency is bone bare. They can't cover everything. Half the time they're up in the mountain taking care of the hunting stuff. Occasionally, they have the opportunity to come down to the ocean and consider enforcement things like that.

So you need to see the big picture of everything. And it's a hard decision, and the information that's provided, like I mentioned, I can't support it in its entirety. We need fishing management because we need conservation. If not, all of these resources are not going to be here for our grandkids, our great grandkids, and our great-great grandkids. And that's what we're trying to do, we're trying to preserve it for them. Thank you.

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Dec. 05, 2012

Aloha. My name is Makani Christiansen. I'm of Keawe. I went to the naval academy, Kamehameha Schools, I studied in oceanography, I'm a commercial fisherman, a throw netter, a fly fisherman, a light tackle fisherman, and a spear fisherman, we surround fish, and I depend on the ocean for a living.

I've heard testimony here tonight from many different individuals, testimony from individuals from afar, Cornell, Occidental, Washington University with what I feel is limited knowledge in our ocean resources. I do not support the ban on spearfishing because we as Hawaiians, we as people of Hawaii have evolved over the years. When taxes came to Hawaii, Kamehameha the III, we had to pay for our land. We had to pay taxes. We had to survive. And a lot of Hawaiians went on canoes and caught fish. Different times of the year they caught fish, opelu, ahi, aku, weke, uhu, and they sold that to different members of the community and provided for their families.

Now, our technology, it's advanced itself, and as Hawaiians and as people of Hawaii, we've evolved. And we are limited by the depth of the water. We're limited by God himself. God protects a lot of the environment around us. When you go to a ko'a, fishing hole, there is many, sometimes you catch fish from that ko'a, you take it, but you manage your resources. It's very

important for fishermen who is surviving off the resources to manage what they have. Otherwise, you could overdo it. And we don't want to do it. No fisherman wants to overdo what they catch.

I've seen ko'as, actually, be dismantled by -- everybody has an impact, okay, on koa's. I've seen koa's be dismantled by dive operators, diving in the morning, diving in the afternoon, diving in the evening with flashlights same spot every single day. The ecosystem of that ko'a is ruined. I've seen weke populations not come back to that ko'a, mamao not come back to their ko'a.

I'm very concerned about the fish we eat, very important. Everyone in this room has ties to the ocean and feels a responsibility to take care of it. We all do. That's why we're here. But we need to work together to ensure the safety of our ecosystem. And doing that, listen to those fisherman because we have a wealth of knowledge that far exceeds that of any Ph.D. that I've met thus far. If we can do that, we can bridge a gap that has been plaguing this and basically -- it's been plaguing our social, economic life-style. So I just ask each and every one of you to really reach out to the fishermen and don't accuse them of being the enemy because we're not. We're here to preserve the environment just like you.

Thank you.

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December 19, 2012

Aloha DLNR:

RE: Oppose rules package for West Hawaii.

My name is Kaimi Kaupiko, I am a native Hawaiian, and I am also from the last Hawaiian fishing village of Milolii. I am opposed the West Hawaii rules package. I am honored to be here and to let the board know of my concerns. I have been fishing these grounds all my life. I am here with my dad to protect and to do what is right. He has been fighting collector's way before I was born. Milolii is a Fishing Managed Area and we are stewards of our area. Recently I went to the Hawaii County Council as a expert witness on fishing and Opelu fishing and to talk about the laws that protect me as a native Hawaiian and more so as a cultural practitioner and that as native Hawaiian we have rights to collect and gather because it is a part of our way of life. My Kupuna Walter Keli'iokekai Paulo taught me many valuable lessons, like him I carry on their teaching so that we can preserve and perpetuate our unique lifestyle in Milolii.

I have dive the coastline; I have noticed all the fish gone. I have seen with my own eye's these intruders pound and rake our reefs to extinction. These divers have no connection or respect to the 'aina, the people, and the ocean. They have destroyed our reefs, killed our fish, and is taking away a cultural practice that we Kanaka maoli have practiced since we inhabited the Hawaiian Islands.

If there is measurement regulations placed upon fishing and spear-diving we need to have more strict guidelines but more so we need to ban the collection for good. The tropical fish collectors can do as they please, they take the small baby reef fish, they cut the fish fins, they starve the fish, they even shoot bleach from a bottle into the reef to stun the fish, and by doing so they are smothering our coral and disrupting the delicate balance of marine life.

We have remained true to the traditional practices of fishing on these grounds; we take only for the table. Finally, as a result of my work on the big island and on speaking as an expert witness we were able to pass a resolution that the Big Island is in full support of a statewide ban. But the legislature won't act. They say it's your authority to end this wasteful practice – not theirs. This is why we're asking you to please send those rules back and redraft as a statewide ban. We raised and elevated our cause to now protect the rights of the native Hawaiian people. We realize that the environment and the culture are equally impacted by this industry and a ban is needed today.

mahalo

Kaimi Kaupiko

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Dec. 05, 2012

Hi, my name is Leonard Torricer. I am against the 40 species White List for the following reasons. I waited several years since the last time DAR came down here and explained to the general public that L50 should be in place for all of the fish in that blue regulation book. L50 is where the fish have grown to the size where 50 percent of the population can reproduce. They were telling us back then that we as food fishers were catching too much so we needed to have the fisheries management tools in place so that there would be fish for the future.

What I would like to see on the 40 species list fish because close to 25 percent that's being proposed are food fish also, that they should be in L50 for those food fishes because that's what I've asked them to do back then, was to have an L50 for paku'iku'i, kole, and for black kole. I was told back then that there was going to be a Second go-around, looking at new fishes that we were catching as food and doing proposals on L50 for those. So I would like to see all of the fish on the White List have L50 minimum sizes, and I'd also like to see the fish that are endemic or found only in the State of Hawaii also have L50 rules. We're looking at a fisheries management tool that DAR has told us works and will work to ensure that there is fish in the future. This is a commercial fishery. The fish on that commercial fishery should be managed. It shouldn't be just put out there and say, okay, 3 out of the 40 will have these rules. The rest of them there is no rules.

In terms of banning spearfishing with SCUBA, the West Hawaii Fisheries Council has never put forth the ban before. Before we looked at lay net fishing. We didn't say we were going to ban lay net fishing. We said we



were going to work with the fishermen and see what length of net would work so that the people who are catching fish to feed their families could still be using lay net. What I'm proposing for that measure is FRAs work for the tropical fish collectors, then set up something like that for the SCUBA spearfishing guys so that there is fish for the future. Maybe even look at the fact that before there used to be no commercial sale of speared fish. If you guys looking at uhus, put that on the no-sale list, but don't ban and stop local people from feeding their families.

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Division of Aquatic Resources  
Attn: Mr. William Tam  
1151 Punchbowl St, Rm 330  
Honolulu HI 96813

Via FAX on December 19, 2012 (With copy emailed to DAR-Kona)

Re: Proposed Rules Package for West Hawaii Fisheries Management Area

Dear Sir:

I am a fisherman that regularly fishes the area from Keauhou to Mahukona on the Big Island. While I am a hook and line fisherman, I would like to make comment on the SCUBA spearfishing portion of the rules package. I am in OPPOSITION of the ban on SCUBA spearfishing.

While SCUBA spearfishing ban at night may be acceptable, a blanket ban is not a good idea. I give the following reasons why a total ban on SCUBA spearfishing is NOT A GOOD IDEA:

- 1) SCUBA divers tend to use the 60-ft to 100-ft depth area, an area not used by snorkel or free divers, therefore it spreads the fishing effort to a wider area. By banning SCUBA, the divers will simply concentrate on areas where they can free dive, thus take more fish from shallower areas. Banning SCUBA gear for spearfishing will not reduce the total take of fish, it will simply move the harvest to different locations.
- 2) Spearfishing is a very selective fishing method. Divers can pick species and size of what they harvest, therefore size and species bag limits should be used to manage this fishery rather than a total ban.
- 3) Before a management method is put into place, there should be scientific evidence, not hearsay and speculation on the amount, type, and impact of SCUBA spearfishing on popular spearfishing areas in West Hawaii. To my knowledge, the rationale on why a ban was proposed was based on speculation, not science.
- 4) If the amount of current harvest by SCUBA spearfishers is not known, there will be no possible measure of success or failure of a management method utilizing a complete ban.
- 5) If SCUBA spearfishing is a problem to the nearshore ecosystem, then it should be looked at for the entire state, not just West Hawaii. The proposed ban in West Hawaii will create a hodge-podge of

regulations.

The proposers of this amendment have not shown adequate justification for a ban. This is a bad proposal and should be deleted from the proposed rules package.

I recommend that DLNR initiate a statewide data collection of types and amounts of fish harvested by spearfishers and work with spearfishers to manage this fishery. Involving the stakeholders from the very beginning of the management process will improve the outcome of any fishery management plan.

Most fish harvesters, regardless of method of harvest, desire sustainable harvest and an abundant fishery in future years. Please work with the fishermen BEFORE AND DURING the management process.

Sincerely,

Phil Fernandez  
Holualoa HI 96725

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Dec. 05, 2012

My name is Janet Marie, and I live in town, in Kona. And I have no credentials and you can tell I'm white, so I will always look like I came from the mainland which I did, no matter how long I've been here.

I came to Hawaii to care for my family, and while I was here God saw me fit to have me lose everything I own on the mainland so I guess you're stuck with me. And so I am here and I will live and I will die supporting this Hawaiian nation.

We all have a moral obligation to love and protect this island and make decisions that honor the ancestors and that support seven generations. And I think it's important to fix this bill before we pass it because there is something important that's been left out and several people have mentioned it, but I will as well.

It's not pono and no one has a right to take away Hawaiian's rights to provide food for their families and their villages. So I oppose this package because it needs to clearly protect the people who feed their families and villages and to be able to do that forever.

It's important, I think, to follow the money. And I'm very simple, but when I follow the money, I see that it's not the people who feed their families who are in the money trail, but the aquariums are in the money trail. And when I go on the dock at Honokohau and I see six mahimahi on the dock, and I'm not very educated but two seem big enough, four don't seem big enough, I think that's a problem.

So the old ways as Teresa eloquently explained to us, the old ways of harvesting and using the lunar calendar, according to the seasons, protected the fish population. I agree that spearfishing at night does not feel honoring and pono to me.

So when I think about aquariums, what happens if all this scientific bag limit thing doesn't work or we miscalculate in some way, and so perhaps it would be better to ban all aquarium people from harvesting until the fish populations are healthy and replenished. I don't know.

The boats on the harbor, they bother me. Some may be pono, maybe not, but we have an obligation to look and to do the right thing.

Thank you for listening and letting me share my opinion.

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Dec. 05, 2012

My name is Carl Jellings. I come from Waianae, Oahu, and we left this morning at 2:00 so I'm not too sharp right now, and I swam in from the boat to be on a plane to be here tonight to listen to all of you, especially my friends back there.

I've been an advocate for fishing since the late '80s, especially the future of fishing. And today, it just so happened that I left my son in charge, my son is 23 years old, I left my son in charge of a sailing operation right at the most important, critical time. And he called me and they were successful, and I trained him. He's 23 years old. I trained him since he was 3 years old. He didn't know how to talk, but he knew how to drive the boat.

What I've heard all night is we saving these resources for future generations. It's what I've been hearing from everybody, future generations. You cannot -- what are you saving it for, future generations. If you don't train your child, you don't train your children where the fish is, how to catch the fish or what different arts it takes to catch each species, each different species of fish -- one-third of all my son's training was conservation, how to be diverse in the different tactics and the different techniques. It's all part of conservation, doing one species, doing another species, doing another species with different types of techniques. It's how you fish sustainably.

So if we ban something like spearfishing with SCUBA, I know a lot of -- I know a lot of people who have been teaching their kids where to go, what kind of things to look for, how to find the fish, where the fish is. There is a hundred things involved. The knowledge doesn't fall out of the sky. You're trained. You do it over and over and over and over again until you master it. So I don't know how you can say we saving this for future generations. If you cannot train a child so that he can, actually, train his child, and his child can train his child, you know. That's what

Hawaiians been doing forever. That's how I know how to do what I do because my dad taught me how to do it.

So that's all I have to say, thanks.

Oh, by the way, I oppose the spearfishing.

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Dec. 05, 2012

Hi, everybody. My name is Steven Mahelona. I live right across the street, Hawaiian Homes. I am a Hawaiian. I love the ocean. I'm against the rule.

I feel that a lot of people, a lot of the Hawaiian people in here is against the rule, has said enough already, and I think they understand because if you don't, I mean, obviously, you're not listening.

However, I did attend this class today, and it was about problem solving; and that every problem, there is a solution and that us together, got to come together and find that solution. And by pointing fingers at one person, you have three fingers pointing back at you.

So what I'm trying to say is that nobody here is right, nobody is ever right every single time. We all make mistakes, but we do need to know what is right.

As far as the tropical fish collecting, I mean I've done tropical fish collecting. My dad owns his house today because of tropical fish collecting. It was part of my family since I was a little kid. And I just think the problem with the tropical fish collecting is that we got to look at how much Hawaiians are, actually, really doing tropical fish collecting and how much people from the mainland coming over here and doing the collecting.

And the Hawaiians here are educated about the ocean. We know. We told you guys already. We ain't stupid. So what we got to do, I think, is educate the guys that is coming in from the mainland over here and diving in spots four, five days. We all know that's not right. We have spots all over the place we can go to, why just target one area.

And as far as closing down any beaches, I think that's wrong like why we want to close down anything.

I mean we should all be able to enjoy everything out there.

So I mean as far as all of that, I just hope that we can come to agreement and make everybody happy. And I know sometimes not everybody can be happy and say it's fair, but I think if we can all come together and really speak our own perspectives on things and listen, we can really go far with this one.

Thank you.

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**From:** patty mctighe

**Sent:** Friday, December 07, 2012

**To:** darkona@hawaiiantel.net

**Subject:** Scuba spraefishing

Aloha I would like to let you know I am against the new law that would not permit spearfishing while using a scuba tank. I am an old man with 1 lung and have been diving these island all my life. I am 70 now and this is the recreation I choose and cannot do it without a scuba tank. I go after tako and some kaukau fish from time to time and please do not pass this law. I agree the reefs are getting depleted but actually the night diving and the tropical fish collecting are the main reasons. I'm sure you are aware that an astounding number of tropical fish collected die before or shortly after they are collected and few ever reach an aquarium. Why are we letting outside people take our natural resources for profit. Why did Maui banish fish collecting? We do not need to allow fish collecting it does nothing for our island economy . There is no way a responsible diver with a spear can wipe out a reef. The way they get wiped out is the divers that gas the holes and there is no policing of this practice here on the big island you folks do not have the boats or the man power to take care of this. I have seen bleached holes everywhere and even reported the persons involved with no satisfaction. Please do not punish the spear fisher man with scuba as this will not solve the problem. I do think an area where all the charter dive boats can go and let the tourists take a look is a good idea sp lets make a reserve but not the entire calm coastline of the big island. Its time to take action on the real culprits and not let big money and business lobbies rule our resources. This is the only way there will be anything left for the future. Businesses are here as long as there is something to sell and they brake as much as they can get and leave when they have used everything up. I say no to the proposed Chapter 13-60-4 Scuba Spearfishing. Let the people fish Mahalo for the chance to vote Drake S.Fujimoto Naalehu Hawaii 96772

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Dec. 05, 2012:

Aloha. My name is Sam (Varron?). I've been a fisherman for about 25 years here on the island, and I'm against this bill because I don't think it's right, you know.

A real fisherman knows his respect about the water and the reef and the ocean, you know. We don't just go out there and terrorize fish at night. We have respect. By the time we go back to a spot that we've dove takes about a year, so we're not just a terror out there at night.

We're, actually, not the problem. Why don't you guys look at the roi or the tilapia. Those, actually, are the problem at night. If anything, you guys should be paying us for killing the roi. I kill at least maybe 3 to 400 roi a month. And thank God there is people that eat them, like the Polynesian, Samoan, Micronesian, so I can, actually, kill a roi and feed them to the people.

Like the brother said, we're Hawaiians, I may be not Hawaiian, but I've been injected many times. I'm just kind of really sad to hear all the testimony of these scientists and doctors. They're not here. Come on, realistically, to be a night diver with tank, you got to be an elite diver, and that's what we are.

We're not just an anybody. We're a professional just like you, and that's all I can say.

I ban this law, I don't think it's right.

Thank you.

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Dec. 05, 2012

My name is Jerome Marks. I'm speaking on behalf of Puna Brown. He has his testimony here. He had to leave because his house was on fire.

He's against this bill. I, Jerome Marks, am against this bill for one thing, one thing only. This is not the Hawaiian way. The Hawaiian way is to be Hawaiian. Hai comes from here. I don't need to sit over here and I don't need olelo to you like some people did. Olelo is nothing. Hawaiian comes from over here. The way we were born and raised, that's the way we want to go. The kapu system worked for the Hawaiians. If the gentleman earlier who said that this is the best you can come up with, brah, then I sorry, brah, that's not the best. The best is still out there. You guys got to go ask the right people. Nobody went ask the right people. Ask the right people. Ask all the people down the beaches that does this regularly. Ask them, ask them. You want to know the truth, ask the right people. Go talk to Billy Kenoi. He's asked the right people. That's why he's mayor. And that's why we backed him up because he's the mayor. He asked the right people. He put the right people in the right jobs. I'm totally against this ban. Fix it. If you don't fix it, come down and talk to the right people.

Thank you.

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Dec. 05, 2012

Tracy Kubota:

I'm not Lei Kihoi, but she gave me her testimony to read on her way out the door.

She writes: I am in opposition to the proposed rule package for the following reasons.

One is that according to Article VII of the State Constitution, it is imperative that the State acknowledge and recognize Native Hawaiian rights.

Section VII states: The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of Native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

Number two, as a consequence, it is incumbent on this body to acknowledge the rights of Native Hawaiians, by assuring that Native Hawaiian fishermen, especially those individuals who depend on the ocean for their sustenance, be actively involved in the management plan/decision-making process of their marine life habitat.

Three, historically, families like Mr. William Kaupiko, Mr. Kuahuia of Miloli'i, Max Poe Poe, Wade Lee of Mo'omomi on Moloka'i and the like, have supported their families, their life-style, because of their close connection to the ocean.

In summary, I oppose the proposed rule package because I feel that the current proposed rules do not reflect the mana'o of Native Hawaiians who have a right to be consulted as reflected in Article VII, Section 7 of the Hawaii Constitution.

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Dec. 05, 2012

My name is Bradley Kanoa, born and raised here, 43 years now.

I'm totally against this bill. A lot of us Hawaiians depend on diving. Some of us are older now. We cannot hold our breath as long as possible like we used to. We depend on providing fish and food for our family members. We give other people food when we provide it for ourselves also. If you're going to take that away from us, yeah, it's like you're asking the wrong people. We're not scientists like you folks. We don't got the answers for everything like you guys think you guys do. You're not asking the right people like braddah said. A lot of us depend on food source.

First you guys take away a lot of our fish out of the reefs and you guys giving it to the mainland when we survive off of that, like the yellow kole. You guys taking all that for provide them for aquarium and stuff like that. We, as the people of Hawaii, we eat that. We were born here, that's our right. You guys taking away our rights. You guys not asking the right people. That's all I got to say, but I'm totally against this bill.

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Dec. 05, 2012

Aloha, everybody. My name is Matt Kakalia. I live Hawaiian Homes up here. I'm 23 years old, and I'm a keiki o' ka aina. I'm from Hawaii, and my family, no more much of a background. I was hanai into Hawaii. Started off in Hilo, raised in the rivers, came out to Waimea. The family up there taught me how to hunt, catch food for my family. Came to Kona, started

diving, and that's how I was raised to live. So if you ban this, you taking my life away.

I am 50 percent Hawaiian. I don't know my Hawaiian side of the family. As far as my other side of the family, they live in Hilo, but what I learned taking care from these other local families around the island, I can catch fish and I can take fish to my Hilo family. And every time I take fish to them it's like having Thanksgiving, every time I go to their house. When I bring the fish, they appreciate it so much because they can't go do it.

And I just want to say that I do not support this, what they're doing.

Thank you.

Dec. 05, 2012

Fred Huihui:

Aloha, all you Hawaiians. I'm here because of the ban of the spearfishing. I live off the ocean for a long time. I come from Miloli'i. I was born down there. I dive all the way to Pebble Beach, and I notice a lot of them are gone already. I want my word to go down on the piece of paper.

You take my spear away, I'm going to eat out of the rubbish cans down Kailua-Kona, because I live off my ocean. You give me five fish, that's not enough to feed me. And you know what, I'm not going to listen, I'm going to spear my fish, and I'm going to feed my family whether you like it or not.

And I will dive from Miloli'i to Kailua-Kona, Pebble Beach, I'm going to keep diving there. And that's all I got to say.

**From:** Rene Umberger | For the Fishes [mailto:info@forthefishes.org]  
**To:** darkona@hawaiiantel.net  
**Subject:** Testimony - OPPOSE Aquarium Take Rules

Aloha,

**I oppose the Aquarium take rules and beg you to put an immediate moratorium on all aquarium collecting until a full evaluation is concluded.**



The rules are not based on sound science.  
A thorough environmental & impact review has not been conducted.  
Rules would not reduce the degradation caused by fish collecting.  
Unlimited commercial take of reef fish for aquariums should stop.



The rules conflict with cultural values and the values we teach our keiki.  
The rules are meaningless because they are not enforceable.

or:

Aloha, I OPPOSE the Aquarium Take Rules because they allow for ongoing:

- \_\_\_Coral reef degradation
- \_\_\_Species depletion & Threat to survival
- \_\_\_Conflicts w/fishers who see fewer fish like pakuikui and kole to share with their ohana
- \_\_\_Waste and needless death to wildlife
- \_\_\_And:

**Sent on behalf of:**

<b>James Haskins</b>	11/17/2012		Kailua, HI 96734
<b>Mary Ann Kern</b>	11/20/2012		Honolulu, HI
<b>Courtney Nichols</b>	11/27/2012		Kailua, HI 96734
<b>Wanda Nichols</b>	11/29/2012		Kailua, HI 96734
<b>Sandy Shimmon</b>	11/29/2012		Kailua, HI 96734
<b>Jaclyn Van Bourgondien</b>	11/29/2012		Lahaina, HI
Rules would not stop ongoing degradation. Protect Hawai'i's environmental and economic future by keeping our reefs healthy & alive by keeping our fish here on our reefs!!			
<b>Deborah Driscoll</b>	11/29/2012		Kihei, HI
We are destroying our reef ecosystem to the point where it may not recover. Please be an advocate for change. For the world.			
<b>Mike Moran</b>	11/29/2012		Kihei, HI
Rules would not stop ongoing degradation. Unlimited take should stop. How long will our State government allow the plunder and rape of our coral reef system?			
<b>Mark Schacht</b>	11/29/2012		Albany, CA 94706
These proposed rules are a transparent effort to deceive the public and stay the hand of the court in the lawsuit just filed against DLNR. This is happening on the Governor's watch--it's his agency and these are HIS proposed greenwashing rules. What an outrageous abuse of the regulatory process!			
<b>Lora Chamberlain</b>	11/29/2012		Chicago, IL
Protect our Reefs, human beings should not be allowed to just do anything they want to do, Mother Nature must win or we all lose!!! Tourism will suffer if you kill the reefs!!!			
<b>Pamela Polland</b>	11/29/2012		Kula, HI
The health of our reefs is PARAMOUNT to keeping the tourist trade coming to our islands. When you demolish the reef eco system, the islands become less appealing to visitors, and then our whole economy fails. Sustaining colorful marine life in HI is not just good for the environment, it's good for our economy as well. Taking reef fish for the aquarium trade has NO LASTING VALUE. It's just a short term money gain for that one industry. It does NOTHING to help our island culture, economy or eco systems overall - and in fact, is quite HARMFUL to all of the above. Please don't let this happen. Mahalo			
<b>Cindy Texeira</b>	11/29/2012		Wailuku, HI
I would like to see Hawaii's aquarium fish trade be banned from all of Hawaii's waters. Our fish should be left alone so they can be enjoyed by the people of Hawaii and be the reason people come to Hawaii. WE need to protect these fish, the reefs and all of their habitat.			
<b>Sylvia Masella</b>	11/29/2012		Kihei, HI
SAVE OUR REEFS!			
<b>Jeannette Heidrich</b>	11/29/2012		Kailua, Kona, HI
I love looking at the fish in the salt water, not behind glass!!!! Our native fish are dwindling in the reefs around Hawaii.			

<b>Joan Lloyd</b>	11/29/2012		Kihei, HI
The proposed rules for the Big Island are a smokescreen for continued, unlimited reef wildlife extraction and decimation. It must STOP.			
<b>Donita Sparks</b>	11/29/2012		Los Angeles, CA.
Keep the tourists coming and protect your reefs and fish!!			
<b>Phyllis Tavares</b>	11/29/2012		Makawao, HI 96768
SAVE OUR OCEANS. OUR PLANET DEPENDS UPON A HEALTHY OCEAN. WE ARE ALL INTER-CONNECTED. HEALTHY OCEANS TAKE IN CARBON-DIOXIDE AND RELEASE OXYGEN. WE NEED HEALTHY OCEANS.			
<b>Anita Wintner</b>	11/29/2012		Kihei, HI
Ban aquarium collecting. DLNR has no way of enforcing changes, and it is ridiculous to make rules for one island and not the other. If this is the best DLNR can come up with, fire the director, an aquarium collector.			
<b>Caroline Azelski</b>	11/30/2012		Kapaau, HI 96755
Thank you for making it possible for me to help.			
<b>Ann Goody</b>	12/01/2012		Kailua-Kona, HI
<b>Grant Heidrich</b>	12/01/2012		Kailua Kona, HI
All collection of ornamental fish should stop immediately as the state is in flagrant violation of its own laws requiring an environmental impact study that scientifically proves the sustainability of any fish collection. Regardless of the scientific evidence requires, this practice violates the Hawaiian cultural heritage and respect for the oceans and land.			
<b>Lynn Allen</b>	12/01/2012		Kihei, HI
I believe that it is essential to protect Hawaii's reef ecosystems in ANY way possible. Banning a needless and senseless trade such as the aquarium trade is such a mechanism. It is needed for the posterity of all.			
<b>Pat Cadiz</b>	12/01/2012		Paia, HI
<b>Bernadett Mansell</b>	12/01/2012		Kula, HI
Please consider the long term damage...we may not live to see it, but our keiki surely will.			
<b>Patrice McDonald</b>	12/01/2012		Kealahou, HI
There has been no consequences or scientific study to your rules. They are designed for profit to foreign money, no scientific studies on the negative consequences of rules since the 1960's. Even tourists would rather see our native fish in the ocean.			
<b>Bob Babson</b>	12/01/2012		Kihei, HI
Please stop the aquarium trade. I have lived in Kihei since 1991 and have witnessed the depletion of reef fish. I only see Tangs now in the Ahihi Natural Area Reserve. When I first moved here, they were on all the reefs here in Kihei. Mahalo			
<b>Cassandra Wylie</b>	12/01/2012		Pahoa, HI
Why are the fish for sale? Too much has already been taken from these islands. Leave the fish alone where they were meant to be, not as a for profit enterprise. Just be pono.			
<b>Tina</b>	12/01/2012		Kahului, HI
Please HELP save them!			
<b>Lynn Spina</b>	12/01/2012		Ventura, CA
This impacts so many aspects of the reefs and surrounding area.			
<b>Nancy Shah</b>	12/01/2012		Hilo, HI 96720
It seems in Hawaii government and business allows regulations without fully researching the far reaching impact. Please be sure to insure our island environment is protected. Thank You,			
<b>Deb Shields</b>	12/01/2012		Nashville, TN
i recently went diving for a week on maui and big island. i had not been for 2 years and i noticed a considerable decrease in the numbers of all the species of the "pretty yellow fishes". please stop collecting...they all die in aquariums			
<b>Lesley Thompson</b>	12/01/2012		Loveland, CO
I oppose the Aquarium Take rules and request an immediate moratorium on aquarium collecting.			
<b>Linda Block-Gandy</b>	12/01/2012		Lafayette, CO 80026
As a scuba diver that has explored the reefs of the Caribbean and Hawaii I can say that I have seen a decline in			

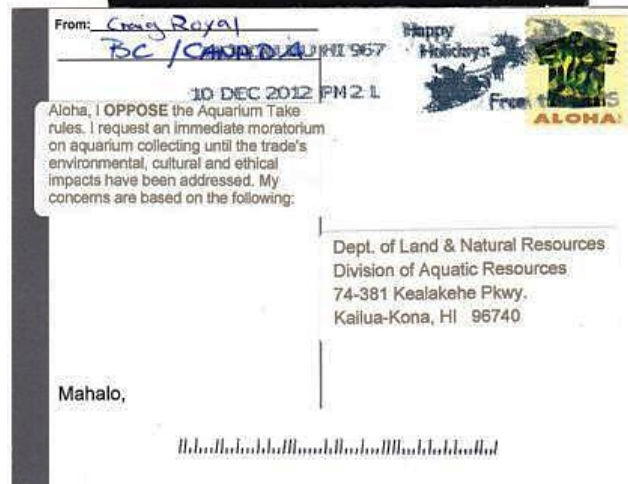
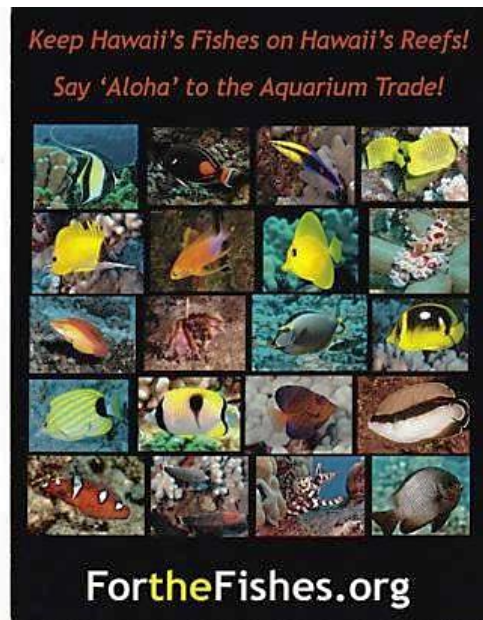
the number of fishes in the Hawaiian islands over the past 12 years.			
<b>Dionne Miller</b>	12/01/2012		Kailua Kona, HI
I snorkel daily and am disgusted at the lack of caring for the environment shown by fish collectors and DLNR. It is time to protect Hawaii's precious underwater areas instead of selling them off for pennies. Wake Up!			
<b>Terry Thompson</b>	12/01/2012		Loveland, CO
I love coming to HI and diving and snorkeling. I have noticed a marked decline in several fish species over the years.			
<b>Deborah Telesmanic</b>	12/01/2012		Santa Rosa, CA
I OPPOSE the Aquarium Take rules and request an immediate moratorium!			
<b>Leslie Wingate</b>	12/01/2012		Pahoa, Hawai'i
Watch Finding Nemo! I would like to see all aquarium fish being bred in aquariums and not taken from the ocean, many of them die that way! I really love the reefs and fish here, this is my home, as well as the fishes home, and I do not think it is right for anyone, even fish to be taken from their homes!			
<b>Nadine Ornborg</b>	12/01/2012		Santa Fe, NM
Please stop the depletion of marine life in Hawaiian waters.			
<b>Val Kimbrough</b>	12/01/2012		Keaau, HI
The legally required environmental impact must be performed. Please conform to the laws that are in place.			
<b>Douglas Miller</b>	12/01/2012		Kailua Kona, Hawaii
Keep the reef inhabitants on the reef and not in someone's aquarium.			
<b>D. Paul Yeuell</b>	12/01/2012		Malibu, CA
The ornamental fish collection industry is in the process of liquidating it's assets like a business conducting a fire sale. When they've killed the reefs, we will have lost one of the planet's greatest treasures. It's time for a moratorium on all collecting in HI's coral reefs while a thorough environmental impact study can be conducted. The stakes are too high to let the destruction of the coral reefs continue.			
<b>Bradley Jones</b>	12/01/2012		Los Angeles, CA
The reefs of Hawaii are already severely degraded from overdevelopment and pollution. Taking fish off the reefs is only making them decline faster.			
<b>Kara Amundson</b>	12/01/2012		Louisville, KY
If these creatures cannot be bred in captivity, then you should surely not remove them from the wild and further diminish stocks.			
<b>Deirdra Rogers</b>	12/01/2012		Fairfax, CA 94930
I want to see Hawaii's aquatic wildlife on the reefs where they thrive...not in aquarium tanks where they die.			
<b>D. Friedman</b>	12/01/2012		St. Louis, MO
Aquariums discourage tourist trade: if you can look at a tank with fish no need to go to Hawaii.			
<b>Lois Crozer</b>	12/01/2012		Kailua, HI
If people want fish in an aquarium, why don't we learn to breed them? I don't think it's fair OR smart to take fish from the reef. That is so archaic and just plain dumb. The fish don't belong to the collectors!			
<b>Doug Fetterly</b>	12/01/2012		Honolulu, HI
I would hope that DLNR will finally do the right thing and ban this trade until such time as it can proven to be sustainable.			
<b>Rob Simonsen</b>	12/01/2012		Everett, WA
Boot the aquarium trade off the Hawaiian islands!			
<b>Lori Grace</b>	12/01/2012		Tiburon, CA 94920
SAVE THE REEFS!! SAVE THE FISH!!			
<b>Amy Venema</b>	12/01/2012		Kihei, HI
Please stop the aquarium trade all together.			
<b>Martin Beauprez</b>	12/01/2012		Colorado
I have been visiting Hawaii for many years now and have noticed a significant decline in the reef fish. This has been snorkeling and diving activities. These fish need to be living in the natural environment not fish tanks!!!			
<b>Pamela Kottwitz</b>	12/01/2012		Pahoa, Hawaii
This is hurting the environment to line the pockets of a select few. It's not fair.			

<b>Cathy Goeggel</b>	12/01/2012		Honolulu, HI
It is beyond time that DLNR provide real protection for marine animals- and that any staff/board members who have a financial interest in the aquarium trade recuse themselves.			
<b>Wanda Woody</b>	12/01/2012		Kailua-Kona, HI
This is part of the beauty we like to share with vacationers. Let's protect it			
<b>Robert Stahl</b>	12/01/2012		Santa Cruz, CA 95062
Our oceans are being stripped down to nothing worldwide, Hawaii depends on tourism each year, how can we possibly strip our reefs and damage our most prized resource the wild life in our ocean. Can you imagine if tourist come to Hawaii and ask where are all the fish, and the local government would respond, "We Sold them" only to die months later, its insane, please create a solution NOW! Thank You			
<b>Paul Kohman</b>	12/03/2012		Oakland, CA
As a former resident of Maui I have witnessed the decrease in reef fish populations and the effects on the ecosystem. We as concerned citizens must express our outrage that fish collectors are allowed to damage this valuable ecosystem as they are now doing.			
<b>Linda Willaby</b>	12/04/2012		Pahoa HI
Stop our beautiful fish from disappearing!			
<b>Nancy Mawson</b>			Wailuku, HI
<b>Barbara Noel</b>			Kihei, HI
<b>Diane Kornell</b>			Kihei, HI
<b>Gordon Gillis</b>			Kihei, HI
<b>Judy Mertens</b>			Makawao, HI 96760
<b>Lois Gillis</b>			Hershey, PA
<b>Lynn Turnbull</b>	12/19/2012		Lafayette, CA
Comment: : Save the reef fish! Please			
<b>Nadine Robertson</b>	12/19/2012		Mountain View, HI
Stop the abuse of over-taking and the killing of Hawai`i's wildlife of which includes coral and fishes. Over-fishing, a big concern and problem, added to the problem of unregulated taking of our exotic fishes for the sheer pleasure to beautify restaurants, hotels, bars, and homes the world over is abusive. Our wildlife to be enjoyed by ALL and enjoyed in their natural habitat, not displayed in unnatural habitats (to solicit tourism!). An act of murder and wastefulness to collect from the wild knowing their lives are slight in captivity, or die enroute. fun to watch that its worth it! Sick mentality! Collectors of exotic wildlife for aquariums should collectively build on raising for the selling, exporting, and showing of exotic fishes and coral. Australia does. Please kokua and save our precious endemic or indigenous wildlife, on land or sea. Mahalo			
<b>Frank</b>	12/19/2012		Atherton, CA
I have a house on the Big Island and feel this aquarium fishing terrible and hurting the tourism.			
<b>Dave Studeman</b>	12/19/2012		Lafayette, CA
Protect your reefs. Your culture boasts of respect for the lands and sea...start living up to that belief!!			
<b>Jay Watkins</b>	12/19/2012		Portola, CA
I am witness to the heartbreaking devastation that has occurred to these reefs during my lifetime. I want the fish to be there for my children to enjoy - not in a tank somewhere outside of Hawaii			
<b>Christine Wolf</b>	12/19/2012		Kihei, HI
The aquatic life in Hawaiian waters is Hawaiian, why would we allow it to be taken away and a large majority killed in the process?			
<b>Angela Huntemer</b>	12/19/2012		Kahuku, HI
With the other factors stressing reefs such as acidification and other climate change related problems, it is high time there was a complete ban on the Aquarium Trade. It is a disgrace that the rampant pillaging of the reefs has been allowed to continue for so long.			
<b>Bobby Bounds</b>	12/19/2012		Pahoa, HI
This is a disgusting practice and someone should write the Animal Planet to protest the airing of Tanked!!!			
<b>Vivian Toellner</b>	12/19/2012		Hilo, HI
Aloha, Stop selling everything that makes Hawaii what the special place it is. So your love for this beautiful unique place now before it is too late. With love and respect for Hawaii. Mahalo			

<b>Laurel Whillock</b>	12/19/2012		Kamuela, HI
As someone who has been SCUBA diving off the Kona coast since 1990, I don't agree that fish collecting hasn't had any impact on our coral reef fish populations. It's time to do a current EI and determine whether or not fish collectors are more valuable than the SCUBA divers, snorkelers, and both tourists and locals who want to enjoy the beauty and economic benefits provided by a healthy, vibrant coral reef system.			
<b>Gregg Gruwell</b>	12/19/2012		Gleneden Beach, OR
Having just moved from Hawaii to OR after 13 years, I am saddened to see this corrupt practice supported by DLNR.			
<b>Cheryl Zarbaugh</b>	12/19/2012		Honolulu, HI
I have had the opportunity to work in a few businesses that maintained salt water aquariums....in ALL of these instances ALL of the fish had to be replaced every two weeks because they died. This is unacceptable raping of the oceans of our precious resources and marine life! The only right			
<b>Shayla Middleton</b>	12/19/2012		Kihei, HI
Please see that unlimited collection has depleted our current population, where will the more and more and more come from if we already have less?			
<b>Shawn Mackenzie</b>	12/19/2012		Palo Alto, CA
Aloha, I oppose the Aquarium Take rules and request an immediate moratorium on aquarium collecting until the trade's environmental, cultural and ethical impacts have been met.			
<b>Leslie McMorrow</b>	12/19/2012		Kona, HI
Hawaii's fish belong in the ocean-not tanks - - didn't you watch "Finding Nemo!"			
<b>Sally Hartman</b>	12/19/2012		Kona, HI
The West Hawaii rules package includes a 40 species Hit List (aka White List), with all other species off limits. If applied to the 2011 catch, it would have reduced the take by about 1% or 4,000			
<b>Jeff Schwartz</b>	12/19/2012		Kula, HI 96790
Please adopt effective rules to protect our reefs and reef fish from the aquarium trade.			
<b>Christine</b>	12/19/2012		Kihei, HI
The only way to ensure sustainability is to establish moratoriums on all areas for a period of time so that stocks replenish themselves and then ONLY when the numbers exceed measurable impact should stocks be allowed to be tapped into. However, I cannot, in my experience in Hawaii see that ANY species is ready to be taken.			
<b>Aly</b>	12/19/2012		New York, NY
Save the fish!!			
<b>David Bagshaw</b>	12/19/2012		Atherton, CA
Please make an effort to save the fish before they all gone. By then it will be too late. Thank You.			
<b>Lynne Olson</b>	12/19/2012		Atherton, CA
This is your chance to make a real difference in our world.			
<b>Cory Harden</b>	12/19/2012		Hilo, HI
Don't send our sea life to die in stateside aquariums!			
<b>Tom Wright</b>	12/19/2012		Hilo, HI
It's time to stop thinking of profit.			
<b>Lynn Nakkim</b>	12/19/2012		Pepeekeo, HI
We need to move in the direction of conservation zones where NO spearing and no collecting are allowed. Richardson's bay can continue as a swim spot, but NO COLLECTING of fish or objects should be allowed there, and in other sheltered spots where fish reproduce for the entire coast.			
<b>Paul Kuykendall</b>	12/19/2012		Pahoa, HI
Please protect our reefs			
<b>Kristin Olson</b>	12/19/2012		Woodside, CA
This is your chance to make a real difference in the world, and stop aquarium trade.			
<b>Kip Sheeline</b>	12/19/2012		Hillsborough, CA
This is imperative. It's a unique resource of the islands and can't be squandered.			
<b>Daniel Kanahale</b>	<b>12/19/2012</b>		<b>Kihei, HI</b>
The impact of the aquarium collection trade on Hawaiian Cultural Resources has not been adequately assessed or			

addressed. Their needs to be consultation with the ahu moku representatives of each moku on each island by the state of Hawaii through DLNR. The input from the ahu moku representatives and community members who are knowledgeable in the moku about traditional resource management should be a part of administrative rules developed to manage the aquarium collection trade and should be a vital part of this process of developing regulations that will protect our vital cultural resources.			
<b>Eve Short</b>	12/19/2012		Kailua-Kona, HI
I oppose the Aquarium Take rules and request an immediate moratorium on aquarium collecting until the trade's environmental, cultural and ethical impacts have been addressed.			
<b>Ellis Short</b>	12/19/2012		Kailua-Kona, HI
I oppose the Aquarium Take rules and request an immediate moratorium on aquarium collecting until the trade's environmental, cultural and ethical impacts have been addressed.			
<b>Robert Fagan</b>	12/19/2012		Los Angeles, CA
I oppose the AQ Take rules!			
<b>Shannon Shea</b>	12/19/2012		Waikoloa, HI
Leaving fish on the reef is a much greater economic and cultural benefit to Hawaii than the morally reprehensible aquarium collection trade could ever be.			
<b>Miranda Kawaiola</b>	12/19/2012		Kihei, HI
Aloha, I now have to find spots to snorkel to see fish, before they were abundant no matter where I snorkeled or went diving. It's really sad, a travesty really, best experience is in the water not in your living room. I OPPOSE the Aquarium Take rules and request an immediate moratorium on aquarium collecting until the trade's environmental, cultural and ethical impacts have been addressed.			
<b>Wendy Harvey</b>	12/19/2012		Kihei, HI
I am a scuba diver and have seen the schools decline over the years. We MUST do something now before it's too late.			
<b>Mary Trotto</b>	12/19/2012		Kihei, HI
We are the keepers of teh land and the sea, it is up to us to make sure that commercial use of the sea does not cause a harmful change in its function and beauty. We are the keepers of the land and the sea if we do not protect the sea, who will?			
<b>Kerri Ballard</b>	12/19/2012		Kula, HI
The difference in the number and variety of fish in the areas that are protected such as Ahihi Bay is indisputable. The need to immediately do everything in our power to protect this fragile sliver of life around us is imperative.			
<b>Bradley Jones</b>	12/19/2012		Oceanside, CA
I have visited Hawaii a few times, and I have had the good fortune to do some skin diving and enjoy the natural beauty of fishes swimming in their native environment. I would like to preserve this wonderful experience for future generations. I oppose the Aquarium Take rules. Please consider putting an immediate moratorium on aquarium collecting until all of the issues have been fairly and impartially addressed.			
<b>Richard Reed</b>	12/19/2012		Hakalau, HI
no reason to allow ANY commercial collecting			
<b>Teri Shore</b>	12/19/2012		Sonoma, CA, 95476
Please work with the conservation community.			
<b>Laura Olson</b>	12/19/2012		Los Angeles, CA
The environmental impact needs to be assessed!			
<b>Sandra Shimmer</b>	12/20/2012		Kailua, HI 96734
Not the Moorish Idol – they are fragile and mostly die in captivity – not cleaner wrasse!!!			

Or:



<b>Indio</b>	12/10/2012		California
Overfishing!!			
<b>Craig Royal</b>	12/10/2012		BC, Can
<b>Lisa Rahtburn</b>	12/10/2012		Wahiawa, HI 96786
<b>Laura Bollman</b>	12/10/2012		Kailua-Kona, HI
<b>Kathy Walls</b>	12/10/2012		Plano, TX
<b>Vassallo</b>	12/10/2012		Clawson, MI 48017
<b>Lu Zhang</b>	12/10/2012		Concord, NC 28027
<b>Laureen Evans</b>	12/10/2012		Dickinson, ND
<b>Jenny Desaulniers</b>	12/10/2012		San Antonio, TX 78236
<b>Jacque Gregory</b>	12/10/2012		Victoria, BC Can
<b>Cathy Miles</b>	12/10/2012		Portland, OR 97229
<b>Mark Loretan</b>	12/10/2012		Menlo Park, CA
<b>Danuta Blum</b>	12/10/2012		Kailua-Kona, HI
<b>Lynoa Wallach</b>	12/10/2012		Kapaaau, HI
<b>Michael Stroschein</b>	12/10/2012		Kailua-Kona, HI
The economic impact of this practice jeopardizes the important tourist and eco industry			

<b>Christopher Mooney</b>	12/10/2012		Kailua-Kona, HI
Just because they are a bunch of sick fuckers.			
<b>Motlock</b>	12/10/2012		Kailua-Kona, HI
<b>Julie Bezzant</b>	12/10/2012		Honolulu, HI
<b>Ashley VanJetzer</b>	12/10/2012		Kailua-Kona, HI
<b>Chris Lautenberger</b>	12/12/2012		Martinez, CA
<b>Shirley Conty</b>	12/12/2012		Winnipeg, Can
<b>Kelsea Wells</b>	12/12/2012		Kailua-Kona, HI
<b>M. Druce</b>	12/12/2012		Vancouver, BC Can
<b>Stephen Grayt</b>	12/12/2012		Santa Cruz, CA
<b>Bill Radke</b>	12/12/2012		Tinley Pkwy, IL 64477
<b>Hiroko Smith</b>	12/12/2012		Honolulu, HI
<b>Lorraine Chow</b>	12/12/2012		Redwood City, CA 94962
<b>Andrea Zuckerman</b>	12/12/2012		Mt. Kisco, NY
<b>Kenny Banks</b>	12/12/2012		Kamuela, HI
<b>Cheryl Kutzborg</b>	12/12/2012		Seattle, WA 98006
<b>Nicole Krydz</b>	12/12/2012		Martinez, CA
<b>Jeannie Bartz</b>	12/12/2012		Tucson, AZ
<b>Erik Smith</b>	12/12/2012		Honolulu, HI
<b>Peter Banks</b>	12/12/2012		Kamuela, HI 96745
<b>George Fulop</b>	12/12/2012		Mt. Kisco, NY
<b>Ben Hoang</b>	12/12/2012		Santa Clara, CA
<b>Virpi Kangas</b>	12/12/2012		Vancouver, BC Can
<b>Annette Clawson</b>	12/12/2012		Lakewood, OH 94107
would like the natural world to be here for Grandkids!!			
<b>Jane Sullivan</b>	12/12/2012		Pacific Grove, CA 93950
continual promotion of sustainable fishing practices			
<b>Desiree McGowan</b>	12/12/2012		Port Townsend, WA 98368
<b>Pat Beatty</b>	12/12/2012		Palo Alto, CA 94306
<b>Cynthia Brock</b>	12/12/2012		Amboy, WA
<b>Mark Yuen</b>	12/12/2012		Waikoloa, HI
<b>Rocco Lojac</b>	12/12/2012		Southampton, NY 11968
<b>S. Love</b>	12/12/2012		Waipahu, HI
<b>Steve Meyer</b>	12/12/2012		Austin, TX 78713
<b>DJ Druce</b>	12/12/2012		Vancouver, BC Can
<b>Teri Hall</b>	12/12/2012		St. Croix, VI
<b>Barbara Costello</b>	12/12/2012		Aurora, CO
<b>Stephen Fujii</b>	12/12/2012		Reedley, CA
<b>George McIntosh</b>	12/12/2012		Calgary, Alberta, CA
<b>Grace Baker</b>	12/12/2012		Waikoloa, HI
<b>Sarah Costello</b>	12/12/2012		Denver, CO
<b>Doug Fenwick</b>	12/12/2012		Amboy, WA
Ocean Acidification			
<b>Micheal Bartz</b>	12/12/2012		Tucson, AZ
<b>Ken Barnes</b>	12/12/2012		Fremont, CA
<b>Alan Johanson</b>	12/12/2012		Port Townsend, WA
<b>Judy Stewart</b>	12/12/2012		Vancouver, WA
You are wonderful to make us all aware! Peace & Love			
<b>Joyce Davis</b>	12/12/2012		Pahoa, HI 96778
Every resource require limits to assure the fish for the next generation			
<b>Pamela Clark</b>	12/12/2012		Pleasant Hill, CA



Every resource require limits to assure the fish for the future generation			
<b>Anna Wyszynski</b>	12/12/2012		Anchorage, AK 99507
<b>Tom Sullivan</b>	12/12/2012		Pacific Grove, CA 95950
Fishing methods that result in by catch			
<b>Laura Meyers</b>	12/12/2012		Austin, TX 78731
<b>April Gonzales</b>	12/12/2012		Southampton, NY
<b>Ward Conley</b>	12/12/2012		Delta, BC
<b>Phil Nishida</b>	12/12/2012		Fresno, CA
<b>Theresa Gushaulis</b>	12/12/2012		Mountain Top, PA 18707
<b>Selvy Thirurengadam</b>	12/12/2012		Kailua-Kona, HI
<b>Tory Trisch</b>	12/12/2012		Davis, CA 95616
<b>Betty Bridgewater</b>	12/12/2012		Arlington, TX 76002
<b>Mike Doph</b>	12/13/2012		Kailua-Kona, HI
<b>Siobhun Price</b>	12/13/2012		El Mirage, AZ 85335
<b>Joan Gannon</b>	12/13/2012		Kealahou, HI
<b>Tami Asars</b>	12/13/2012		North Bend, WA
<b>John Noonan</b>	12/13/2012		Brampton, Ontario, Can
<b>Logan Noonan</b>	12/13/2012		Brampton, Ontario, Can
<b>Denise McCabe</b>	12/13/2012		Adelaide, S. Australia
<b>Bob Newton</b>	12/13/2012		Belfield, ND
<b>Mary Englestead</b>	12/13/2012		Las Vegas, NV
<b>Skye McCabe</b>	12/13/2012		Adelaide, S. Australia
<b>Holly Lindstrom</b>	12/13/2012		Kailua-Kona, HI 96740
<b>Krystyna Krzywdzinski</b>	12/13/2012		Conifer, CO 80433
I like to snorkel, see fish			
<b>Stan Krzywdzinski</b>	12/13/2012		Conifer, CO
<b>Nancy Newton</b>	12/13/2012		Belfield, ND
<b>Cheryl Nesler</b>	12/13/2012		Kailua-Kona, HI
<b>John Gatewood</b>	12/13/2012		Kailua-Kona, HI
<b>Tanya Sinclair</b>	12/13/2012		Brisbane, Australia
<b>Chuck Sullivan</b>	12/13/2012		Agawam, MA 01001
<b>Pat Sands</b>	12/13/2012		Kailua-Kona, HI 96740
<b>Lucy Olsen</b>	12/13/2012		Captain Cook, HI 96704
<b>Nigel McCabe</b>	12/13/2012		Adelaide, South Australia
<b>Petria Moncada</b>	12/13/2012		NSW, Australia
<b>Grace Noble</b>	12/13/2012		Waddell, AZ 85355
<b>Callum McCabe</b>	12/13/2012		South Australia
<b>Kelly Okoji</b>	12/15/2012		Kailua-Kona, HI
<b>Rebecca VanJetzer</b>	12/15/2012		Kailua-Kona, HI
<b>Roger Osmuy</b>	12/15/2012		Pottstown, PA 19465
<b>Shemy Schliufer</b>	12/15/2012		Longview, WA 98639
<b>Caden Rutter</b>	12/15/2012		Lindon, VT
<b>Andrea Goldthorpe</b>	12/15/2012		Victoria, BC
<b>Randi Dyer</b>	12/15/2012		Julesburg, CO
<b>Dion Mulhause</b>	12/15/2012		
<b>Jon Mason</b>	12/15/2012		Pottstown, PA
Save our Fish!			
<b>Karen Boriem</b>	12/15/2012		Port Angeles, WA 98363
<b>Shikeyah Rutter</b>	12/15/2012		Lindon, UT
<b>Vanessa Jenks</b>	12/15/2012		Kamuela, HI
<b>John Reasoner</b>	12/15/2012		Aurora, CO

Yulia Troussora	12/15/2012		Aurora, CO
Cheryl Cournoyere	12/15/2012		Cave Creek, AZ
Jacqueline Suitt	12/15/2012		Palm Springs, CA 92264
Amy Reisenauer	12/21/2012		Kihei, HI 96753

Dec. 05, 2012

Aloha, kakou. My name is Jason Ng, resident of West Hawaii, opposed to the spearfishing ban of making people provide food for their family, making them criminals when a lot of people can't afford or are not capable of collecting fish for consumption. And some of us provide fish for those and feel it's unfair to categorize people who provide food in the same bill as fish collectors and strongly oppose that and suggest to maybe close off areas like how they do the collection of fishers and maybe have it closed off for a year or a couple years at a time in areas to let it rebuild, but not to totally ban spearfishing; and hope that everybody feels compassion for the ones that just want to feed their families. Thank you.

Dec. 05, 2012

My name is Don Inaba. I was born and raised here, been diving probably for the past 42 years. I'm against this ban because it needs to be modified. I think that like the brother just said earlier that he shot how much fish in one night so that just goes to show you that how -- what do you call it, efficient it is at night, fish are sleeping, they don't have a chance.

If you do it during the day, it may not be sporting like the guy says because the fish have a chance. They see you coming, and they can get away. So the only thing I'd like to say is they should modify that fishing ban, as far as spearfishing on this next meeting.

Thank you.

**From:** Bob Flatt  
**Sent:** Friday, November 30, 2012 11:43 AM  
**To:** darkona@hawaiiantel.net  
**Subject:** WHI coral reef management - Testimony

I OPPOSE the new regulations.

I oppose because the white list is too permissive as there is no actual measurement of most of the populations of the 40 species. If you can't measure it you can't manage it.

It is tempting to claim a sampling approach is sufficient, say 16

species.

However this assumes a 'Natural System', but the reef is harvested by commercial entities whose incentive is to harvest species based on price. So this is not a Natural System, it is in part a Commercial System. A 50¢ Yellow Tang compared to a \$50 Anthias illustrate the varying incentives ignored by the management model.

The management model ignores price, and so does not model the reef. A misleading situation.

Robert Flatt

Captain Cook  
HI 96704

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November 13, 2012

TO;DLNR

FROM; COLLEEN WALLIS (CONCERNED CITIZEN) Dear

DLNR;

I read in WHT about the white list of tropical fish collecting. I also read Syd Kraul's statement that yellow tangs do not breed in captivity. If I recall correctly, was it not a collection of yellow tangs that was left to die on Honokohau harbor the other year? Whoever was responsible for that waste of precious sea life showed no concern for our beautiful reef creatures. I strongly oppose the white listing of the Yellow Tang and all other fish. Fish collectors are just stealing from nature. You are enabling these predators who have no regard for our reef and it's natural inhabitants. Please do not white list the yellow Tang.

Sincerely,

Colleen Wallis

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**PETITION IN OPPOSITION OF BAN ON SCUBA SPEARFISHING AND  
IMPLEMENTATION OF THE "WHITE LIST" OF REEF DUE TO IMPACT ON  
SUSTAINABLE HARVEST OF KAU-KAU FISH.**

**We, the undersigned, are stakeholders of the West Hawaii shoreline and marine environment. We are local residents who have utilized the shoreline and ocean. Many of us are multigenerational, and for many years we have utilized the ocean, for subsistence and supplemental income when necessary. We utilize the ocean and its resources in a sustainable way with long-term conservation of resources in mind. Our input into the West Hawaii Fishery Council public input process was suppressed and ignored.**

**NOW THEREFORE, we ask that the Department of Land and Natural Resources remove the ban on scuba spearfishing and the implementation of the "white list" from the proposed West Hawaii Regional Fisheries Management Area Rules Package.**


Name	Address	Date
Robert Henriques	Holualoa, HI	12/13/12
Donella Gipson	Kailua-Kona, HI 96740	12/12/12
Tina Masciocchi	Felton, CA 95018	12/14/12
Richard Masciocchi	Felton, CA 95018	12/14/12
Edith Williams	CA	12/15/12
Aka DeMesa	HI	12/15/12
Chery DeMesa	TX	12/15/12
Maurice Kahawaii	HI	12/15/12
Beatrice Ravenscraft	Kealahou, HI 96750	12/15/12
Shawn DeMello	Captain Cook, HI 96704	12/15/12
Jane DeMello	Captain Cook, HI 96704	12/15/12
Raymond Genegabuas	Kailua-Kona, HI 96740	12/15/12
A. Cobb Adams	Kailua-Kona, HI	12/15/12
Nainoa Murtagh	Kailua-Kona, HI	12/15/12
Adam Snodgrass	Kailua-Kona, HI	12/15/12
George Berd	Kailua-Kona, HI	12/15/12
Casey Berd	Kailua-Kona, HI	12/15/12
Chase Alexander	Kailua-Kona, HI	12/15/12
Mige Byrne	Keauhou, HI	12/19/12
Ash Berringer	Kailua-Kona, HI	12/19/12
Katherine Conlon	Keauhou, HI 96739	12/19/12
Craig Hawkins	Keauhou, HI 96739	12/15/12
Teresa Nakama	Kailua-Kona, HI 96740	12/12/12
Tate Marks	Kailua-Kona, HI 96740	12/12/12
Jonah Marks	Kailua-Kona, HI 9674	12/12/12
John Meyers	Clearwater, BC CAN	12/13/12
Nalani Kukua	Holualoa, HI 96725	12/13/12
Lloyd Leong	Kailua-Kona, HI	12/12/12
James Garrigan	Kailua-Kona, HI	12/15/12
Melissa Dunigan	Kailua-Kona, HI	12/16/12

William Talley	Kailua-Kona, HI	12/16/12
Shaloma Marks	Kailua-Kona, HI	12/16/12
Peter Lindsey	Kailua-Kona, HI	12/17/12
Leonard Hussey	Kailua-Kona, HI	12/17/12

Aloha,

I am against the spear with scuba ban and against the ban of sale of speared fish to retail or wholesale markets.

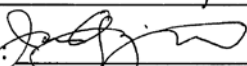
Print: Nicole N Marks

Signature:  Date: 12-5-12

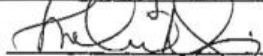
Print: Veronica Marks

Signature:  Date: 12-5-12

Print: James Garrigan

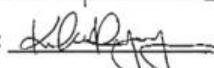
Signature:  Date: Dec. 5

Print: Melissa Duignan

Signature:  Date: 12.18.2012

Comments: I enjoy eating fish and have my whole  
life as I was born & raised on Big Island and I don't dive.  
I hope to see a modification on this over combersome  
ban!

Print: Kalino Rapozo

Signature:  Date: 12.14.12

Comments: With this we are able to go down to  
deeper waters & supply our family w/ food.

Print: Naima Mortagh

Signature: Naima Mortagh Date: 12/14/12

Comments: Going up and down  
50 ft is bullshit without a tank.  
One kope per drop "Fuck DFI"! GO  
BIG OR GO HOME!!!!

Print: Keoki Rivera

Signature: [Signature] Date: 12-14-12

Comments: I spear fish for a  
living. There's no jobs this is  
how I live and support myself.

Print: Albert Jansonecker

Signature: [Signature] Date: 12-13-12

Comments: Do these people think it's  
easy to dive 30'-40' feet on a  
single breath of air to spear one (1) fish  
These people don't need to eat fish  
because they're aren't from here!

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From: Charles Andres  
Sent: Wednesday, November 28, 2012 2:57 PM  
To: darkona@hawaiiantel.net  
Subject: Fish protection

I oppose any law that allows people to take tropical fish from anywhere on the big island.

There should be attempts to increase tropical fish stocks to at least their 1980 levels.

Which is true-

- there are no laws in existence being effect in Hawaii to stop or regulate removing tropical fish from Hawaiian waters.

- laws exist but there is no enforcement

- if we create laws to regulate the tropical fish industry, we "legitimize" it.

- if there is one person in Hawaii who claims to make \$1 on a type of business, "the business gets to live forever "

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**From:** Pononui  
**Sent:** Friday, December 14, 2012 10:11 PM  
**To:** darkona@hawaiiantel.net  
**Subject:** I am against and DO NOT support the WHRFMA amendments rules package

I am against and do not support the WHRFMA Amendments which are being proposed.

Pononui Lealao  
Kailua-Kona, Hawaii  
96745

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**From:** Mare Grace  
**Sent:** Thursday, November 22, 2012 1:46 PM  
**To:** darkona@hawaiiantel.net  
**Subject:** Aquarium fish collecting testimony

Oppose!!

Mare Grace

Kamuela, HI 96743

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