





Summary of Public Comments and Questions from Public Scoping Meetings
Proposed Mo‘omomi North Coast of Molokai CBSFA
(Revised June 2017*)

[*This Summary was revised in June 2017 to include the following changes based on public feedback on the original Summary published by DAR on May 24, 2017:

1. Under “SCUBA spearfishing” (p.7), a sentence was added to include a comment that some people are too old or out of shape to freedive, so they need to use SCUBA equipment to safely spear fish;
2. Under “Commercial fishing” (p.8, paragraph 1), language was added to clarify that “weke ‘ula” refers to *Mulloides vanicolensis*, also known as “red weke” (as opposed to *Mulloidichthys pfluegeri*, also known as weke nono or moelua, which is often called weke ‘ula);
3. Under “Commercial fishing” (p.8, paragraph 4), a sentence was added to include a comment that the original intent of the CBSFA statute (HRS §188-22.6) was to grandfather in commercial fishers, and a suggestion the state should consider including such a provision in the Mo‘omomi CBSFA rules;
4. Under “Other Comments, Questions, and Concerns” (p.16), a bullet point was added to include comments from fishermen regarding State responsibility, culpability, and fiduciary duty to the people of Hawaii in establishing a CBSFA.]

In January 2017, the Division of Aquatic Resources (DAR) received a proposal from Hui Mālama O Mo‘omomi (HMM) for the designation of the Mo‘omomi North Coast of Molokai Community-Based Subsistence Fishing Area (“Mo‘omomi CBSFA”). DAR held four public scoping meetings, two on Molokai on 3/16/17, one on Oahu on 3/21/17, and one on Maui on 4/5/17, to present the proposal to the public and obtain feedback from interested stakeholders. DAR also accepted written feedback by mail and email from 2/19/17 to 4/12/17. The following is a summary of the comments, questions, and suggestions, organized by category, received through the public scoping process.

Uhu

Uhu, parrotfish (Scaridae)		<ul style="list-style-type: none"> • No take: uhu ‘ele‘ele and uhu uliuli • Bag limit: 2 total uhu pālupaluka and uhu ahu‘ula during open season • <i>Size limit: 12” minimum fork length (existing state law)</i> • Closed Season: April 1 – June 30 for uhu pālupaluka and uhu ahu‘ula
Redlip parrotfish (<i>Scarus rubroviolaceus</i>)	Spectacled parrotfish (<i>Chlorurus perspicillatus</i>)	
 <p>uhu ‘ele‘ele</p>	 <p>uhu uliuli</p>	
 <p>uhu pālupaluka</p>	 <p>uhu ahu‘ula</p>	

Summary

Most people felt that the proposed bag limit of 2 uhu per person per day was reasonable. Some felt that two uhu was too much, especially if a group of fishermen were targeting uhu. They suggested setting a limit per fishing group. Others felt that two uhu was not enough to allow fishermen to harvest for kūpuna or other family members. They suggested increasing the limit for fishermen harvesting to share their catch. Many people agreed that blue uhu should be protected. Some fishermen shared anecdotal reports that they now see more blue uhu on Maui as a result of the Maui rules protecting blue uhu. One individual questioned the scientific basis for protecting blue uhu and suggested that instead a slot limit should be implemented to protect large breeders. One other individual questioned why a maximum size limit for uhu was not proposed. A couple of people felt that the existing state minimum size of 12" was too small, but they were okay with it. There was also a suggestion to consider including other uhu species. Most people agreed that uhu should be protected from harvest during their peak spawning times from April – June, although a few stated that the June closure would adversely impact the already short summer fishing season.


Questions:

- What is the reason for the uhu bag limits?
- Will the bag limit change if uhu populations recover?
- Why is there no proposed maximum size for Uhu?

Suggestions:

- Consider including other uhu species
- It would be great if there is someone monitoring the health of the fish and reporting back about the health.
- Consider a group bag limit for uhu
- Consider increasing the bag limit for fishermen harvesting to share with others
- Consider allowing the take of uhu in June

Kūmū

<p>Kūmū, whitesaddle goatfish (<i>Parupeneus porphyreus</i>)</p> 	<ul style="list-style-type: none">• Bag limit: 2 per day• Size limit: 16" maximum fork length; 10" minimum fork length (existing state law)• Closed Season: January 1 – March 31
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Summary

Most people agreed that kūmū were in need of more protection and agreed with the proposed bag limit of 2 per person per day. A few individuals felt that the 2 kūmū limit was not enough to feed their family. Some felt that the existing minimum size limit should be increased. People generally agreed that the proposed slot limit was a good management tool, but there was concern that spearfishers might have difficulty judging length and that fish would be wasted.

One individual suggested correlating length with weight to make it easier for fishermen to determine max size. Most people agreed with the proposed seasonal closure. Some questioned whether three months was long enough and proposed extending the closed season into summer to be in line with spawning time. Some questioned the reason for regulating kŭmū at all, stating that the area does not have the right habitat for kŭmū.


Questions:

- Who determines how to decide length of closed season?
- In lifetime of monitoring – has spawning season of species changed?
- The north shore doesn't have the right habitat for kŭmū (they like sand). Why put regulations on fish where they're not?

Suggestions:

- Increase kŭmū minimum size limit
- Increase the bag limit so fishers can share with others
- Remove slot limit
- Correlate length (inches) with weight (pounds)
- Extend closed season (at least through the end of May)

Kole

<p>Kole, goldring surgeonfish (<i>Ctenochaetus strigosus</i>)</p> 	<ul style="list-style-type: none">• Bag limit: 20 per day• Size limit: 5" minimum fork length• Closed Season: April 1 – June 30
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Summary

There was general consensus that kole needed regulatory protection. Most people felt that the proposed 20 kole bag limit was fair or generous. Some comments expressed concern that 20 per person was insufficient to prevent groups of fishers from over-harvesting an area. There were suggestions to reduce the bag limit to 15, 10, or even 5. One comment raised concern that if people needed large amounts of kole, there would be more fishing pressure on other areas. There were comments that the proposed closed season (April – June) would coincide with graduation season. Many saw this as a good thing. A couple comments questioned the proposed minimum size, and there was a suggestion that it be increased to 6 inches.


Questions:

- Is kole in danger of overharvest?
- Why is the bag limit 20 per day?
- Why is the minimum size 5 inches?
- Will this put more pressure on other areas?

Suggestions:

- Reduce bag limit (suggestions include 15, 10, and 5)
- Increase minimum size to 6 inches
- Consider a group bag limit for kole

Moi

<p>Moi, Pacific threadfin (<i>Polydactylus sexfilis</i>)</p> 	<ul style="list-style-type: none">• Bag limit: 15 per day (existing state law)• Size limit: 18" FL maximum; 11" minimum fork length (existing state law)• Closed Season: June 1 – August 31 (existing state law)• Allowable gear: Take by hook-and-line, spear, or throw net only
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Summary

Most comments pertained to the existing state bag limit of 15 moi per person, which was not part of the CBSFA proposal. Many people expressed that this was too high, and suggested a bag limit of 6-12, 5, or even 2 moi per person per day. There was general agreement with the proposed maximum size to protect large spawning females. One comment raised concern that it might be difficult for throw net fishers to judge the length of moi in the surf zone before throwing their nets, but it was recognized that throw net fishing was an important subsistence gathering practice. One individual suggested raising moi by aquaculture to replenish stocks.


Questions:

- Why the bag limit of 15?

Suggestions:

- Reduce existing bag limit
- Consider doing aquaculture for moi on the south shore.

Ula

<p>Ula, spiny lobster (<i>Panulirus spp.</i>)</p> 	<ul style="list-style-type: none">• Bag limit: 2 per day• Size limit: 3 ¼" carapace length (existing state law)• Closed season: May 1 – August 31 (existing state law)• Allowable gear: Take by hand harvest, hook, or trap only• Other: No take of females (existing state law)
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Summary

Most people felt that the proposed bag limit of 2 ula per person per day was reasonable. A few thought that the limit should be reduced to 1. Some questioned whether the law would

allow fishers to take more than their limit to harvest for family members. Some suggested increasing the bag limit for this reason. There was strong support for the proposed gear restrictions, although some commented that the rules should specify more clearly that nets are not allowed. Some comments also asked for clarity about what types of traps would be allowed and whether hand harvest would include the use of SCUBA gear. One individual suggested that the existing minimum size be increased to 4 inches carapace length.


Questions:

- What is the reason for the bag limit of 2?
- Would the bag limit apply only to people who are actively fishing/taking? If you have keiki, kūpuna, or other family members, can you collect their limit for them?
- Can you hand harvest using SCUBA gear?
- What types of traps are allowed?

Suggestions:

- Reduce bag limit to 1 lobster per person
- Increase the bag limit so fishers can share with others
- Specify that nets are not allowed
- Clarify what gear is allowed for hand harvest (e.g., SCUBA gear)
- Clarify what kinds of traps are allowed (cultural or modern?)
- Increase minimum size to 4 inches carapace length

‘Opihi

<p>‘Opihi, limpet (all varieties) (<i>Cellana spp.</i>)</p> 	<ul style="list-style-type: none"> • Size limit: 1 ¼" shell diameter; ½" meat diameter, if meat only (existing state law) • Other: No take or possession while diving
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Summary

There was widespread support for the proposed ‘opihi regulations. Some comments questioned the purpose of the “no take while diving” rule, and suggested that “diving” be defined. One individual expressed concern that the rule would impact people who jump in the water with a mask from a boat to harvest ‘opihi. Instead, a suggestion was made to remove the “no take while diving” rule and establish a maximum size limit for koele to protect larger fertile individuals. There were other suggestions to establish a max size limit for all ‘opihi. Some comments asked whether ‘opihi had a spawning season and suggested that a closed season be established if appropriate. There were a few comments suggesting that there should be a daily bag limit of 10 or 15-20 lbs per person.

Questions:

- What is the purpose of the “no take while diving” rule?
- Does ‘opihi have a spawning season?
- Do lots of people overharvest ‘opihi in this area?
- How will “diving” be defined?

Suggestions:

- There should be a bag limit (15-20lbs or 10lbs suggested)
- Recommend max size limit for koele (or all ‘opihi) instead of no take or possession while diving
- Existing statewide minimum size should be increased

Limu

Limu (multiple species)



- **Allowable gear: Take by hand harvest only (use of scissors is allowed)**
- **Other: no taking with holdfast/roots attached**

Summary

There was widespread support for the proposed limu regulations. Many felt this was a common sense rule that should be implemented statewide. Some suggested establishing a daily bag limit and protected seasons to correspond with reproductive cycles. There was a question about whether a dive knife could be used to harvest limu. There was also a question about the length of holdfast that must be left attached to the substrate.

Questions:

- For limu take, is a dive knife allowed?
- What is the minimum length of the holdfast that must be left?
- Is there a season when particular species are reproducing that can be incorporated into the regulations?

Suggestions:

- Rotate open and closed areas in Mo‘omomi to test limu spawning and see if there are improvements
- Consider a bag limit for limu

Night diving

- No night diving from 6pm to 6am (exception: lamalama or “torching” is allowed)

Summary

There were only a few comments on the proposed ban on night diving. Most comments were in support of the rule, suggesting that it would help address concerns of overharvest of uhu

and other fish. A couple comments questioned the proposed 6pm – 6am closed period, asking whether the time would change based on the season (due to longer days in the summer) and if 6am was early enough for fishermen. One individual expressed concern about the proposed ban, saying that he goes night diving only a few times, and that it is self-regulating because of water conditions.

Questions:

- Will the closure time change based on the season? Summer later time than winter?
- Is 6am early enough for fishermen?

Suggestions:

- none

SCUBA spearfishing

- No SCUBA spearfishing (including rebreathers and/or other underwater breathing devices)

Summary

There were only a few comments on the proposed ban on SCUBA spearfishing. Most comments expressed support for the rule, with many people concerned that SCUBA spearfishing is too effective at harvesting some types of fish (i.e., menpachi and other fish that hide in caves and ledges). Many considered it an unfair fishing method, which is not in line with cultural harvest techniques. Some suggested that SCUBA gear be banned for all harvest, including lobster. Some comments wanted to make sure SCUBA gear was allowed for surround net fishers to allow them to carefully remove the net without damaging the habitat. Some questioned why SCUBA spearing should be banned and asked whether there were studies to justify it. Another individual felt that freediving is more efficient than SCUBA spearfishing and suggested regulations on freedive spearfishing as well. A couple of comments noted that some people are too old or out of shape to freedive, so they need to use SCUBA equipment to safely spear fish.

Questions:

- Why not allow for SCUBA spearfishing?
- Why ban SCUBA spearfishing when there's a bag limit?
- What study was done for SCUBA diving? Why are you banning it?

Suggestions:

- Clarify SCUBA regulation (e.g., does it allow someone to use SCUBA gear when surround netting for ta'ape and akule?)
- SCUBA should not be allowed for all harvest, including lobster
- Might want to include freediving

Commercial fishing

- No commercial fishing, except for akule and ta'ape (recreational/charter fishing operations are not included under commercial fishing)

Summary

There were a significant number of comments regarding the proposed ban on commercial fishing in the area. Over all, there was a lot of support for no commercial take of reef fish species. Many people felt that the philosophy and ideals of preserving the Hawaiian lifestyle and mindset of “feed your family and your neighbors, but don’t sell” required that no commercial harvest should be allowed. Most, however, agreed with the proposed exemptions for commercial take of akule and ta’ape, and many suggested that roi and to’au should also be exempted. One comment suggested that purse and surround netting only be allowed to take those commercially allowed species, and that the same gear cannot be used to take other species. One commercial fisherman suggested that weke ‘ula (*Mulloidides vanicolensis*, also known as red weke) also be allowed for commercial harvest, citing his personal catch records and sustainable practices that did not interfere with subsistence fishing.

Many comments expressed concern that the proposal would have a significant adverse impact on bottomfishers and trollers, who mainly target deep seven bottomfish and pelagic species. These fishers tend to fish along various depth contours, which often run inside the proposed 1-mile CBSFA boundary. To address this concern, there was a suggestion to allow commercial take of pelagic and deep seven bottomfish species in the area. Supporting comments suggested that since fishing was allowed, it would be nearly impossible to enforce the no commercial take provision of the proposed rules. It was also pointed out that pelagic fish were highly migratory, and that subsistence fishers would derive no benefit from prohibiting the commercial take of pelagic species. They also felt that these resources were not being heavily utilized by subsistence fishers, who instead tended to focus more on the nearshore reef species.

There was an alternative suggestion to move the seaward boundary closer to shore (e.g. ¼ miles from shore) or set the boundary along a depth contour. Ideas for depth boundaries ranged from 100 feet to 40 fathoms (240 feet). There were suggestions to create a special commercial fishing permit to fish commercially for akule and ta’ape within the area and to limit the number of permits. Some did not want to allow for charter boat fishing as they felt charter fishers were really commercial fishers as well. One comment pointed out that the original legislative Act 271 in 1994 provided for the continuation of fishing by commercial fishers, saying that “the livelihood of commercial fishers may be adversely affected if they are restricted in their fishing areas and as a result, every effort should be made to incorporate the concerns of commercial fishers.” Some comments suggested that the sale of all nearshore reef associated fish should be banned statewide.

A few comments questioned the definition of “commercial” and noted that a ban would impact fishers who primarily fished recreationally, but sold some of the catch to cover some costs. One comment suggested creating a list of species to be protected from commercial harvest, implying that everything else should be allowed. One comment argued that the original intent of the CBSFA statute (HRS §188-22.6) was to grandfather in commercial fishers, and suggested the state should consider including such a provision in the Mo‘omomi CBSFA rules.

Questions:

- Is there a lot of commercial activity in this area?
- What is considered “commercial” fishing? Are subsistence fishers who sell some fish to cover expenses considered commercial?
- If you ban commercial fishing, where do non-fishermen buy fish?

- Do commercial fishermen have to report where they fish and what they catch? Can you use this to verify complaints or usage?

Suggestions:

- Add roi and to‘au on same exemption as ta‘ape and akule
- Allow commercial take of pelagic species and deep 7 bottomfish species
- Make a list of species that may not be harvested commercially
- Move CBSFA boundaries closer to shore or follow 100’ – 240’ depth contours to minimize impact on commercial trollers and bottomfishers
- Require special permits for commercial fishers to take akule and ta‘ape
- Only allow purse and surround netting to take akule and ta‘ape. Don’t allow purse or surround nets to be used to take other species.

Kawa‘aloha Bay

Regulations for Kawa‘aloha Bay Nursery Area Only (see map for boundaries)

- Fishing or gathering in Kawa‘aloha Bay is not allowed, except for the following allowed activities:
 - Gather a‘ama crab from the shoreline by hand-harvest only
 - Gather limu from the shoreline from 6am-6pm by hand-harvest only
 - Throw net from 6am-6pm
 - Hook-and-line from shoreline from 6am-6pm using artificial lures only
- No swimming, surfing, body boarding, snorkeling, diving, operating a vessel, or engaging in any other in-water recreational activity (to minimize disturbance by non-subsistence activities)

Summary

There was a lot of support for the protections of the Kawa‘aloha Bay nursery area. The intent of minimizing human impacts to help the fish and other marine life that use the area was generally well supported. Some comments opposed the ban on swimming and questioned why it was necessary. Others felt that shoreline ulua fishermen would be opposed to the rule. A number of comments noted that it was a traditional practice not to swim or dive at Kawa‘aloha Bay. Most people supported Option 1, which included the submerged rocks within the boundary. This area is believed to be an important habitat for fish. A couple people preferred Option 2 because they like to dive near the rocks. A couple of comments suggested that the nursery area should be expanded. There were also a number of questions regarding the purpose and justification of the special Kawa‘aloha Bay rules.

Questions:

- How much disturbance is caused by swimming?
- What is the problem with ulua fishing?
- Why restrict fishing during nighttime hours?
- Can you be more specific on shoreline use? What types of fishing is allowed (casting, etc.)?
- What is the reasoning for stopping the nursery areas and not extending to Manae or other areas?
- Is that the only nursery area they’re going to designate for the area?

- At any time in future, if resources really replenish, will it be possible to allow swimming in bay?
- Who will enforce these rules?
- Why allow throw net if it is a nursery area?
- Is lay net allowed in Kawa‘aloha Bay?
- Is this coming from traditional practices?
- Hatchery for turtles? I don't feel that this is important for turtles.

Suggestions:

- At least allow swimming
- Maybe we should expand the nursery area to give more areas to reproduce

Boundaries

- From Kalaeoka‘ilio (‘Ilio Point) in the west to Kaholaiki Bay in the east, from the shoreline out to one nautical mile.

Summary

There were a significant number of comments and questions regarding the proposed CBSFA boundaries. The boundary discussion fell into two categories, lateral boundaries and seaward boundaries.

Lateral boundaries. There was general support for the proposed lateral boundaries. Many people felt that deference should be given to HMM's proposed boundary because they had conducted outreach with landowners and subsistence fishers within the Molokai community in the development of the proposal. Some people felt that the CBSFA would put increased fishing pressure on adjacent areas and suggested that the boundary be extended to include East Molokai or even the entire island. Some suggested that the boundaries be extended in the current proposal, while others favored a separate CBSFA designation proposal for East Molokai. Many who favored a separate East Molokai designation suggested that Kalaupapa be excluded from the current proposal and included with East Molokai.

There were also a number of people who felt that the proposed area was too large and suggested starting with a smaller area first and expanding if it was successful. They cited concerns with DLNR's ability to effectively patrol and enforce such a large stretch of coastline, which they feared might lead to increased vigilante enforcement. A large area would also be more difficult to monitor and assess to measure success. One comment also (incorrectly) posited that "the proposed CBSFA would trump the existing rules and regulations of Kalaupapa and open the area for outsiders to take their resources."

Questions:

- Why does the boundary only extend to Kaholaiki? (why not further?)
- Will the designation put more pressure on areas outside the CBSFA?
- What is the justification for incorporating 26 miles of coastline into the proposed CBSFA?

Suggestions:

- Extend the boundary to include East Molokai or the entire island
- Explore the designation of an East Molokai CBSFA

- Have the boundaries go from 'Īlio to Mo'omomi (don't include Kalaupapa)
- Begin with a CBSFA encompassing 3 – 5 miles of coastline with Mo'omomi and Kawa'aloa Bays in the center, and 1.5 miles of coastline in each direction.
- Start with a smaller area, see if it's successful, and go from there

Seaward Boundaries. Comments were divided over the proposed 1-mile seaward boundary. Supporting comments suggested that the 1-mile distance was consistent with traditional ahupua'a fisheries and management, as well as sufficient to protect nearshore subsistence resources and to provide access to offshore pelagic resources. Many people felt that it was easier to understand the boundary with a set distance from shore rather than using a depth contour.

A substantial number of comments took the position that 1 mile was too far. These comments came mostly from commercial fishers who fish for pelagic and deep bottomfish species along various depth contours, which often occur within 1 mile from shore. Most of these fishers supported protecting nearshore resources such as kūmū and 'opihi, but felt that a 1-mile boundary was excessive and would unnecessarily impact their fishing practices. Many suggested establishing the CBSFA boundary closer to shore (e.g. ¼ miles) or along a depth contour (suggestions ranged from 100 feet to 40 fathoms). Boat fishers noted that it would be easier to understand and comply with a depth contour boundary rather than distance from shore.

Some felt the 1-mile boundary was not enough and suggested extending it to 2 or 3 miles offshore.

Questions:

- How was the 1-mile boundary established?
- Where (at what depth) do these nearshore species exist?
- What is the depth at 1 mile?
- How will the 1-mile boundary be marked? How will the fisherman know where the boundary is? Everything is by fathoms.
- Will there be a physical buoy or marker 1 mile out?

Suggestions:

- Tailor the boundaries to the regulated species and where they exist.
- Make the boundary ¼-mile from shore
- Make the boundary according to depth contour (100' to 40 fathoms suggested)
- Extend the boundary to 2 or 3 miles out

Process

Summary

A number of comments raised questions and concerns about the CBSFA proposal and designation process. On one hand, some felt that the process was too exclusive and did not allow for sufficient stakeholder participation in the development of the proposal. A common question asked was, "who is the community?," the implication being that all members of the public should have input, not just a few Molokai residents. There was a sentiment that HMM was given too much influence in the process, and that equal time should be given to other stakeholders to independently review the proposal. It was even suggested that meetings should be held on the

Big Island and Kauai to give residents of those islands an opportunity to provide input. There was also a suggestion to hold an additional meeting with the residents and workers at Kalaupapa to brief them on the proposal and get their input.

On the other hand, some felt that the public scoping process was too broad, and that it was inappropriate to hold scoping meetings on Oahu and Maui. There was a concern that the proposal would be watered down to accommodate off-island special interests. It was suggested that, at the very least, Molokai comments should be given greater weight.

Concerns were also expressed regarding the format of the public scoping meetings. Some felt that the State should have used a facilitator who was from Molokai. Some felt that the DLNR Chairperson and/or the DAR Administrator should have been present at the meetings. On Oahu, concerns were expressed that the small group discussion process eliminated the opportunity for the public to speak to the entire group and to hear what other people had to say. On Molokai, some felt that the process did not allow for enough conflict to be expressed and resolved through the community *ho‘oponopono* process. Some concern was expressed that the process was top down and that comments provided at past community meetings were not integrated into the community’s current proposal.

There were also a number of comments and questions about how the area would be monitored and evaluated if rules were established. Some suggested that Molokai residents should have a chance to participate in monitoring and that non-destructive methods should be used to collect data (i.e., no gill nets). Others suggested that assessments should be done by an outside, non-biased group.

Questions:

- Who is Hui Mālama O Mo‘omomi?
- How is “community” defined?
- What are the next steps in the process?
- Can we give comments on the rest of the management plan?
- How do we get informed on the next public hearing?
- If the rules are adopted, what is the timeframe and process for modifying the rules in the future? Can the State change the laws without consulting the community?
- Is there going to be monitoring to measure the effectiveness of these regulations? Who will be doing the monitoring?
- Who came up with the species regulations?

Suggestions:

- Hold public scoping meetings on Kauai and the Big Island
- Hold a meeting with the residents and workers at Kalaupapa to brief them on the proposal and get comments
- Give greater weight to comments from Molokai residents
- Clarify how the area will be monitored and assessed

Enforcement/Compliance

Summary

Many comments expressed concern about DLNR’s limited funding and resources (officers and equipment) to adequately patrol the area. Suggestions to address these concerns

included: consider other funding sources, such as the Transient Accommodation Tax (TAT), to fund more enforcement positions; reduce the size of the CBSFA to make enforcement more manageable; establish higher fines for violations; utilize informer's fees to encourage more people to report violations; and use drones and cameras for surveillance and enforcement. Some comments suggested that enforcement could be enhanced by establishing formal "Makai Watch" programs in collaboration with DOCARE. Some asked whether locals could be lawfully trained and hired in enforcement and be equal in status with DLNR/DOCARE for a cohesive partnership. Many comments highlighted the need for good outreach and education about the rules, reasoning that personal awareness and peer pressure is much more effective than a few more enforcement officers.

Comments also expressed concern that DOCARE officers were limited in their ability to conduct inspections of coolers and catches due to legal constraints. There was a suggestion to explore legal amendments and policy changes to give enforcement officers the ability to inspect and enforce as needed. There was a feeling that unless these constraints were lifted, increasing the number of officers would not be very helpful.

Many comments also expressed concern that designation of a CBSFA will lead to a sense of ownership of those waters and increased vigilante enforcement. Some fishermen felt threatened, citing past incidents of vigilantism involving civil rights violations and threats of violence on Molokai, Oahu, and other areas of the State. People wanted to know what the consequences would be if people engaged in vigilante enforcement. There were suggestions to make it really clear who is responsible and authorized for enforcement.

Some comments expressed concern about the enforceability of the "no commercial fishing" law. When boats come from off-island, many asked how DLNR would know what was caught or whether the fish were sold. There was a suggestion to either allow trolling and bottomfishing or prohibit it.

Questions:

- Who will enforce these rules?
- Can volunteers be lawfully trained in enforcement and deputized?
- What are the consequences if people engage in vigilantism?

Suggestions:

- Consider other funding sources, such as the Transient Accommodation Tax (TAT), to fund more enforcement positions
- Reduce the size of the CBSFA to make enforcement more manageable
- Establish higher fines for violations
- Utilize informer's fees to encourage more people to report violations
- Use drones and cameras for surveillance and enforcement
- Establish a formal "Makai Watch" program in collaboration with DOCARE
- Explore legal amendments and policy changes to give enforcement officers the ability to inspect and enforce as needed
- Make it very clear who is responsible and authorized for enforcement
- Either allow trolling and bottomfishing or prohibit it

Access to Fishing

Summary

A number of comments raised questions and concerns about how the proposed CBSFA rules would affect access to fishing, both by boat and by land. Many of these concerns were based on language found in Appendix II, “Management Recommendations for Mokio Preserve by Mac Poepoe,” an earlier proposal dated 2009. That document proposed a system for regulating activities in the area through a notification and catch reporting system for Molokai residents, and special access permits for non-residents. Despite DAR’s efforts to clarify that this language was obsolete, and resubmittal of a revised proposal with that language removed, some individuals continued to express concern that the proposal will restrict access to fishing. There were also questions about who the rules would apply to.

Questions:

- What gives the Molokai people the right to that area? I’ve been fishing there for 30 years
- Please explain the access to area by on island Molokai resident only. If I own land on Molokai can I come from Oahu by boat?
- Who do you check with when the people want to go to go down? Where do they check in if they want to dive?
- Does this proposal restrict non-fishing vessels on the north coast and Mo‘omomi? Please make it clear to the public that this proposal does not affect boat traffic.
- Why would DLNR consider turning their management authority over to the community when they (DLNR) are the ones entrusted with managing fisheries?
- Is this regulation only for Oahu people? People think HMM doesn’t have to follow the rules.

Suggestions:

- Clarify how the proposed CBSFA rules would impact access to fishing

Ho‘olehua Homestead Families Opposition

Summary

Many families expressed concern and/or outright opposition to the proposed rules. They expressed that HMM did not consult with them, and that they do not support HMM as a representative community organization. These families were very united in their opposition and concerns with HMM, but did not offer any other suggestions for resource management of the area. Ten families submitted written comments expressing these concerns. One family also listed an additional nine families that were related to them and did not support the CBSFA designation (some of these relative were still living on Molokai and others lived elsewhere but still returned home and used the Mo‘omomi area). Many of the statements made in opposition reflected personal conflict with members of HMM.

Other Comments, Questions, and Concerns

- **Community-based co-management** – Many comments expressed strong support for the general concept of the State partnering with communities to manage fisheries based on

traditional knowledge, rather than pushing top-down management plans. Many felt that the proposed rules would effectively protect ocean resources and ensure the perpetuation of cultural fishing practices and subsistence lifestyles of Molokai residents. It would also enhance fishing opportunities for the general public. There was some concern that the public scoping process has a tendency to diminish the importance of centuries old traditional knowledge because other stakeholders' needs take precedence and because there is a lack of understanding the deeper foundations and reasoning integrated from kūpuna knowledge. Many felt that laws and policies should reflect that traditional knowledge.

- **Setting precedent** – Some expressed concern about the precedent being set by the designation of CBSFAs. The concern is that eventually the State's waters will be divided up into many different fishing areas, which will be very complex and expensive to manage. There was also concern that this would open the door to similar regulations (restricting fishing) in other places.
- **Data/scientific justification** – Some expressed concern that there was insufficient scientific data justifying the proposed regulations. Some suggested the need for fisheries assessments based on Maximum Sustainable Yield (MSY). Some claimed that fisheries resources were not in danger, and that the rules were unnecessary because Molokai's North Shore is naturally regulated by nature.
 - Do you have data showing how much fish there is?
 - What are the bases for size and bag limits?
 - Has Maximum Sustainable Yield (MSY) been established?
- **Special interests** – Some comments suggested that CBSFAs are a tool for special interest groups, especially large land owners, to take away fair and equal access to fishing. Some accused HMM of getting paid to establish a CBSFA.
 - Who pays for the CBSFA?
- **Invasive species** – There were a number of comments expressing concern about invasive species such as roi, ta'ape, and to'au. Some suggested that they are ruining the fisheries by eating all the baby fish and lobster. Others questioned how much damage they were really doing. There were suggestions to focus on eradication programs and creating a market for these invasive species.
 - Concern that introduced species are eating juvenile fish; eating other species (uhu, kūmū, lobster)
 - How can we make it so that there is a market for invasive fish? Getting rid of those would have huge effects on the health of our fish populations.
 - Are roi and ta'ape causing so much damage that it's really affecting fisheries?
- **Monk Seals** – There were a number of comments and questions about the impact of monk seals on fish populations. Some felt that seals were more abundant than in the past and were the reason the resources were declining, not because of overharvesting by people. Some suggested that monk seal numbers somehow be reduced in the area. Others asked whether studies had been done to determine their impact. There was a request to study this more and report back to the community.
 - How much do seals eat every day?
 - How do you distinguish the impact of the monk seals on the fish population from human impact?

- As it becomes available, collect info about what seals are eating and give back to the community.
- **Salt** – One individual noted that salt was not protected under the proposal and expressed concern that it could be overharvested.
- **Turtle** – Some comments mentioned that they wanted to be able to harvest and eat turtle and asked why they were protected.
- **Other fishery species** – There were some questions about whether other fish not mentioned in the CBSFA proposal (e.g., ‘opelu, kala, palani) were open to harvest.
 - Can anyone harvest them? Any amount?
 - Should halalu be limited to let them get bigger?
- **Integration with other fishing rules** – Some asked for clarification about how CBSFA regulations would work with other state laws. There was a suggestion to make it very clear in outreach materials that current state rules apply and that the CBSFA rules are an added layer (instead of creating an open season for anything not listed). Some questioned why Molokai needed special rules other than the statewide rules. (Why should the north shore of Molokai be more important than Kaneohe Bay, Waikiki, etc?)
- **Native Hawaiian rights** – A number of people expressed concern that the proposal would take away their native Hawaiian gathering rights, but did not explain how their rights would be impacted. One individual asked about the penalties for native Hawaiians who violate the rules and proposed that community service or other penalties outside of jail should be options.
- **Education and outreach** – There were lots of suggestions to increase education regarding these regulations and why they are being proposed. Some suggested giving out tide/moon calendars with monthly seasons and size/bag limits. The feeling was that the kids need to be educated, and they can help inform the older generation. The children are the future resource managers.
- **State responsibility, culpability, and fiduciary duty** – Some felt the State would be culpable of knowingly creating a substantial and unjustifiable risk for boaters and fishermen to the area, by inadvertently and consequently creating a situation for even more vigilantism and Civil Rights violations to occur as a direct or indirect result of developing an unintended false sense of ownership of the CBSFA. Some felt that the State knows that DOCARE is limited and that the proposed 27 x 1 mile area is large—thus leaving an enforcement gap that would lead to more vigilantism and no protection for boaters and fishermen in the area. Finally, some felt that the DLNR and BLNR have fiduciary duties to the public trust and must be held to those fiduciary standards when making policy such as the Mo‘omomi CBSFA.