State of Hawai'i DEPARTMENT OF LAND AND NATURAL RESOURCES Division of Aquatic Resources Honolulu, Hawai'i 96813

June 9, 2022

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

REQUEST FOR FINAL APPROVAL TO ADOPT A NEW CHAPTER UNDER HAWAII ADMINISTRATIVE RULES ("HAR") AS TITLE 13 CHAPTER 60.10, MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA, HAWAI'I, TO MANAGE AND PROTECT FISH STOCKS AND TO REAFFIRM TRADITIONAL AND CUSTOMARY NATIVE HAWAIIAN SUBSISTENCE FISHING PRACTICES ALONG THE SOUTHWEST COAST OF HAWAI'I ISLAND

Submitted for your consideration and approval is a request to adopt Hawaii Administrative Rules (HAR) chapter 13-60.10 to designate the Miloli'i Community-Based Subsistence Fishing Area, Hawai'i (Miloli'i CBSFA), to ensure abundant stocks of priority species and high-quality fishing now and in the future for residents and visitors to Miloli'i and to reaffirm and perpetuate fishing practices that were customarily and traditionally exercised for Native Hawaiian subsistence, culture, or religion along the southwest coast of Hawai'i Island. The Miloli'i CBSFA is an excellent example of the interweaving of traditional and modern scientific knowledge and improving the Department of Land and Natural Resources' (DLNR or Department) and the community's capacity to co-manage the State's public trust resources.

HISTORY

DLNR and community-driven efforts to address concerns over the observed declines in the abundance of important marine species along the South Kona coast span over 40 years and eight DLNR administrations. The following provides a brief history of the relevant events that have culminated in the proposal currently before the Board.

The nearshore ecosystems of the South Kona coast of Hawai'i Island teemed with life and abundance which supported pockets of human settlements over the last 500 years. The fishing families of Miloli'i have continued these traditions and refer to Miloli'i as their icebox that the community relies heavily on for subsistence. Generations of family members lived and traversed between the coastal villages in the Miloli'i area as recently as the mid-1900s. Families still living in Miloli'i continue to access critical traditional fishing grounds at the bays of Pāpā, Honomalino, Okoe, and Kapu'a. Unique to Miloli'i and other South Kona communities is the documented relatively high number of villagers who noted fishing as their primary occupation. Subsequently, Miloli'i and its

surrounding coastal areas have become one of the last pockets in Hawai'i where traditional Hawaiian fishing practices have been preserved and are still practiced today.

In 2005, Miloli'i became the first permanent, legislatively designated community-based subsistence fishing area (CBSFA) in Hawai'i through Act 232. Following the numerous community-led public community workshops and meetings, the Division of Aquatic Resources (DAR or Division) conducted its own statewide public scoping on December 16, 2021. DAR staff received numerous questions, comments, and suggestions at the statewide public scoping. On February 8, 2022, Kalanihale submitted an updated management plan for the Miloli'i CBSFA. The outreach efforts of the Miloli'i community are documented in a comprehensive Administrative Record which, along with the updated Marine Management Plan, is available at www.kalanihale.com/adminrecord.

On February 25, 2022, the Board approved the proposed rules for public hearing and on March 16, 2022, the Governor approved the proposed rules for public hearing.

DAR accepted public testimony on the proposed rules from March 20, 2022 to May 6, 2022 and held an online public hearing via zoom on April 20, 2022 as well as an inperson public hearing at the Miloli'i Beach Park Pavilion on the same day. DAR received a total of 143 oral and written testimonies from 102 individuals and 16 organizations. All testimony was in support of the CBSFA designation; 59 testimonies from individuals and organizations either directly recommended or deferred to the community's recommendation of amending the Pāku'iku'i Rest Area to reflect the original boundaries proposed by the community and reducing the pāku'iku'i bag limit to zero for a period of five years and then five per person per day thereafter (for the entire CBSFA outside of the Pāku'iku'i Rest Area). One testimony was in full support of the CBSFA designation, however recommended adding a definition of "lay net" to the rules for clarity. Two testimonies supported the CBSFA designation, however recommended reducing the length of the CBSFA, reducing the number of subzones within the CBSFA, reducing the depth of the CBSFA from 100 fathoms to 50 fathoms, and reducing the 'ōpelu closed spawning season. The minutes from the online public hearing, the inperson public hearing, and the written testimonies are attached as Exhibit 1, Exhibit 2, and Exhibit 3, respectively. A more detailed analysis of the public hearing and testimony is provided in the attached Analysis of Public Hearings and Testimony. See Exhibit 4.

PURPOSE AND OVERVIEW OF DAR'S AMENDMENTS TO THE MILOLI'I CBSFA RULES

DAR proposes to adopt a new chapter, HAR chapter 13-60.10, to designate the Miloli'i CBSFA and to establish rules governing marine resource uses and activities within the area. Based on the oral and written testimony collected, DAR has amended the rules as follows:

¹ Section 2 of Act232 (SLH 2005) is codified at Hawaii Revised Statues (HRS) § 188-22.7.

Section 2 – Definitions for "lay net" and "lay net fishing" have been added for clarity and consistency with HAR chapter 13-60.4, West Hawai'i Regional Fishery Management Area, Hawai'i.

Section 3 – The boundaries for the Pāku'iku'i Rest Area have been amended to reflect the original boundaries proposed by the community before they were amended by the Board to include Honomalino Bay. The Pāku'iku'i Rest Area includes all state waters and submerged lands from the shoreline out to the 100-fathom depth contour, from Makahiki Point in the north to Kapulau (also known as Honomalino Point) in the south.²

Section 4 – The bag limit for pāku'iku'i has been amended to read: "At any time before July 1, 2027, it is unlawful to take or possess any pāku'iku'i. . . . Notwithstanding any other more restrictive law applicable to the taking of pāku'iku'i, at any time on or after July 1, 2027, it is unlawful to take or possess. . . [m]ore than five pāku'iku'i per person per day or [a]ny pāku'iku'i less than five inches in length."³

The proposed rules drafted in Ramseyer format have been reviewed by the Attorney General's Office and are attached as **Exhibit 5**.

ADDITIONAL CONSIDERATIONS

In response to the testimonies in support of the CBSFA designation but recommending reducing the length of the CBSFA, reducing the number of subzones within the CBSFA, reducing the depth of the CBSFA from 100 fathoms to 50 fathoms, and reducing the 'ōpelu closed spawning season, DAR finds adequate basis and justification within the comprehensive and thorough marine management plan provided by Kalanihale to support moving forward with the proposal without including these recommended amendments in the current rules package. The Division also notes that if, after a period of time and through its monitoring efforts, the community finds these recommendations to be of merit, DAR (in collaboration with the community) can revisit these recommendations and propose amendments to the rules as deemed necessary.

DAR notes concerns within the Division as well as expressed by the Chair that the proposed regulations for pāku'iku'i (Achilles tang), specifically the bag limit of five per person per day after the five-year no-take period is lifted, may not be sustainable. Pāku'iku'i has been fished extensively in Kona for both aquarium fishing and as a food fish. As noted in the Board discussions on the Kona aquarium fish EIS, populations of pāku'iku'i have plummeted in recent decades. Pāku'iku'i abundance has declined by a range of 50-95% in juvenile habitat areas and by 90% in shallow water adult habitats. These declines have been so severe that the aquarium fishing EIS proposed no take of pāku'iku'i. Additionally, surveys across West Hawai'i have indicated that juvenile recruitment of pāku'iku'i has been very low over the past two decades, indicating that recovery will be slow for this species. Pāku'iku'i is a long-lived fish, with a life span of

 $^{^2}$ See Exhibit 5, p. 20, for a map of the proposed area entitled "Exhibit D – Map of Pāku'iku'i Rest Area and Puakai'a Miloli'i" dated 1/31/22.

³ See Exhibit 5, p. 12.

30-40 years, but very small in numbers, so it is extremely vulnerable to overfishing. It is a slow-moving fish, found in small clusters of several fish, in shallow reef habitat in the wash of the waves close to shore, so is very easily caught. Unlike kole, a food fish with quite large populations and much shorter lifespans, pāku'iku'i in any area could be easily wiped out in one day. However, the Department acknowledges that the CBSFA rules should reflect the needs of the community proposing them and that developing regional or statewide rules for pāku'iku'i, potentially utilizing the adaptive management process outlined in HRS §187A-5(b),⁴ is a more appropriate avenue to address its concerns. That way the current rules can move forward as proposed by the Miloli'i community while DAR decides how best to address the regional decline in pāku'iku'i. DAR's efforts will include engaging in monitoring, supporting life history research, developing a management plan for pāku'iku'i, and drafting rules as determined to be appropriate from the results of the monitoring and as outlined in the management plan.

RECOMMENDATIONS:

"That the Board give final approval to adopt Hawaii Administrative Rules chapter 13-60.10, Miloli'i Community-Based Subsistence Fishing Area, Hawai'i as amended in response to the oral public testimony collected from two public hearings, one online via Zoom and one in person at the Miloli'i Beach Park Pavilion, as well as the written testimony received from March 20, 2022 to May 6, 2022."

Respectfully submitted,

BrTh

BRIAN J. NEILSON, Administrator Division of Aquatic Resources

APPROVED FOR SUBMITTAL

SUZANNE D. CASE, Chairperson Board of Land and Natural Resources

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⁴ HRS § 187A-5(b)(1) states: "Notwithstanding any law to the contrary, the board may adopt, amend, or repeal any rule pertaining to bag limits, size limits, open or closed fishing seasons, or gear restrictions by formal board action at a publicly noticed meeting; provided that [t]he board finds that the timely adoption, amendment, or repeal of the rule is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions[.]"

Attachments:

Exhibit 1 – Public Hearing Minutes (Zoom)

Exhibit 2 – Public Hearing Minutes (In-Person)

Exhibit 3 – Written Testimony

Exhibit 4 – Analysis of Public Hearings and Testimony

Exhibit 5 – Draft Administrative Rules (Ramseyer Format)

MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA, HAWAI'I HAWAII ADMINISTRATIVE RULES 13-60.10 PUBLIC HEARING MINUTES (ZOOM)

Public Hearing Minutes Adoption of Hawaii Administrative Rules CHAPTER 13-60.10

Miloli'i Community-Based Subsistence Fishing Area, Hawai'i

Hearing Location: Zoom/YouTube

Hearing Date: April 20, 2022, 3:00 p.m.

I. Introduction

A. Opening

- 1. It is now 3:02 p.m. and this Public Hearing is called to order.
- 2. This is a formal public hearing on the proposed adoption of Hawaii Administrative Rules, Chapter 13-60.XX, relating to the Miloli'i Community-Based Subsistence Fishing Area, Hawai'i (referred to as the "Miloli'i CBSFA"). The proposed rules would establish fishing regulations for the Miloli'i CBSFA, which will be discussed in more detail a little later on in this hearing.
- 3. The proposed rules are available on the DAR website which can be accessed by following the link in the YouTube video description.
- 4. My name is Brian Neilson, and I am the Administrator for the Division of Aquatic Resources; I will be conducting today's public hearing. Helping out with Zoom logistics are Diana Lopera, the Holomua Marine 30x30 Program Planning Associate, and Anita Tsang, University of Hawai'i Sea Grant Fellow. Also joining us is Board of Land and Natural Resources' Hawai'i Island Board Member, Chris Yuen.

B. Purpose

- 1. The purpose of this hearing is to provide the public the opportunity to provide comments in the form of oral and written testimony on these proposed administrative rules relating to the Miloli'i CBSFA.
- 2. I hope that everyone who wishes to provide oral testimony has already signed up by emailing your information to DLNR.Aquatics@hawaii.gov. If you have not, please do so as soon as possible and you will receive a response with directions on how to join the Zoom online meeting.
- 3. When it is time to testify, I will call the names in the order that we have received your email requests.

II. Background

In 1994, the State Legislature enacted Act 271, codified as Hawaii Revised Statutes ("HRS") §188-22.6 which authorizes DLNR to designate community-based subsistence fishing areas (referred to as "CBSFAs") through administrative rulemaking "for the purpose of reaffirming and protecting fishing practices customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion.

The statute provides requirements and criteria for the submission of CBSFA designation proposals and a management plan to DLNR for consideration. In 2005, Miloli'i became the first permanent, legislatively designated CBSFA in Hawai'i through Act 232. From 2015 to 2020, Kalanihale, a grassroots non-profit organization formed by the families and residents of Miloli'i, held numerous publicly advertised community workshops and meetings to provide on-island community outreach and engagement to discuss the Miloli'i CBSFA proposal. Upon careful review of the draft management plan and following the numerous community-led public workshops and meetings, DLNR's Division of Aquatic Resources (also known as "DAR") conducted its own statewide public scoping on December 16, 2021. DAR staff received numerous questions, comments, and suggestions at the statewide public scoping.

In February of 2021, following the DAR-led statewide scoping, DAR received a finalized proposal, management plan, and administrative record from Kalanihale for the designation of the Miloli'i CBSFA to ensure abundant stocks of priority species and high-quality fishing now and in the future for residents and visitors to Miloli'i and to reaffirm and perpetuate fishing practices that were customarily and traditionally exercised for Native Hawaiian subsistence, culture, and religion along the southwest coast of Hawai'i Island. The proposed CBSFA extends from Pa'akai Point at Kīpāhoehoe in the north to Kaunā in the south, from the shoreline out to the 100-fathom depth contour, and includes the following sub-zones: the 'Opelu Traditional Management Zone, the Pu'uhonua Pāpā, the Pāku'iku'i Rest Area, Puakai'a Miloli'i, the Pu'uhonua Honomalino, the Pu'uhonua Kapu'a, and the Pu'uhonua Manukā. The proposed rules would establish bag limits, size limits, seasonal closures, and/or gear restrictions for 'a'ama crab, kole, 'opihi, pāku'iku'i, uhu, ula, and 'ū'ū within the CBSFA; prohibit the take of marine life for aquarium purposes within the entire CBSFA; establish additional restrictions on certain activities and species within the designated subzones; provide an exception allowing vessels in possession of restricted gear or species to traverse through the CBSFA as long as they remain in active transit; identify authorized administrative, criminal, and civil penalties for violations of this new chapter; and provide notice of the State's authority to utilize civil asset forfeiture as an enforcement tool for violations of this new chapter. At the Board of Land and Natural Resources meeting on February 25, 2022, the board approved these rules to go to public hearing, however, the Board amended the rules from the rules originally proposed by Kalanihale by extending the southern boundary of the Pāku'iku'i Rest Area to include the Pu'uhonua Honomalino, reducing the bag limit for pāku'iku'i from five per person per day to one per person per day, and adding clarifying definitions; The resulting rules package is what we will be presenting to you today.

Approvals to conduct this public hearing have been obtained from the Board of Land and Natural Resources on February 25, 2022 and Governor Ige on March 16, 2022.

As mentioned earlier, the proposed rules are available on the DAR website which can be accessed by following the link in the YouTube video description.

III. Notice of public hearing

A. The Legal Notice of this public hearing was published in the March 20, 2022, Sunday issue of the Honolulu Star-Advertiser.

IV. <u>Hearing procedures</u>

- A. This hearing will be conducted as follows:
 - 1. I will explain the proposed rules.
 - 2. Then the public hearing officer will call on those who have signed up to testify in the order that we have received their email requests.
 - 3. Please keep your testimony brief and on the subject in order to allow all those who signed up, the opportunity to testify. Each person will be given up to 3 minutes to provide their testimony.
 - 4. After those who signed up have presented their testimonies and if time allows, we will open the testimony up to those wanting additional time for testimony.
 - 5. Please note that we are recording this hearing. In order to facilitate accurate record-keeping, please state your name and place of residence before giving your testimony and please speak clearly into the microphone. Upon conclusion of this hearing, this recording will become part of the administrative record and will be made publicly available.
 - 6. Please remember to respect the opinions of all testifiers. This hearing is not an opportunity for accusations or rebuttals. There may be differing opinions. Please direct your testimony to the public hearing officer only.

TRANSITION: "I will now provide a summary of the proposed Administrative Rules..."

V. Rule Explanation

The proposed rules establish fishing regulations for the Miloli'i Community-Based Subsistence Fishing Area, Hawai'i.

Section 13-60.XX-1 describes the purpose of this new rule chapter.

Section 13-60.XX-2 provides definitions for a number of key terms used in this chapter, including the names of regulated marine life and the various types of regulated fishing gear and methods.

Section 13-60.XX-3 delineates the boundaries of the Miloli'i CBSFA to include the portion of the southwest coast of Hawai'i Island consisting of all state waters and submerged lands from Pa'akai Point at Kīpāhoehoe in the north to Kaunā in the south, from the shoreline out to the 100-fathom depth contour. The 'Ōpelu Traditional Management Zone, the Pu'uhonua Pāpā, the Pāku'iku'i Rest Area, Puakai'a Miloli'i, the Pu'uhonua Honomalino, the Pu'uhonua Kapu'a, and the Pu'uhonua Manukā are established as subzones within the Miloli'i CBSFA.

We will discuss the various subzones later on in the presentation.

Section 13-60.XX-4 prescribes the permitted and prohibited activities within the Miloli'i CBSFA. The regulations in this section have been crafted to set stricter bag limits, size limits, and gear restrictions to prevent over-harvesting while allowing for the continuance of fishing and harvesting practices that are customarily and traditionally exercised for native Hawaiian subsistence, culture, and religion within the area. Within the CBSFA it will be prohibited to:

- 1) Take or possess 'a'ama crabs with eggs;
- 2) Take or possess any kō'ele;
- 3) Take or possess more makaiauli and 'ālinalina (with shell attached) than can fit in a one-gallon-sized bag per person per day;
- 4) Take or possess more than two ula (spiny lobster) per person per day; It will be unlawful to:
 - 5) Take or possess any 'ū'ū (menpachi) from April through June;
 - 6) Take or possess any pāku'iku'i or kole less than five inches in length with a maximum allowable take or possession of one pāku'iku'i per person per day and a maximum allowable take or possession of twenty kole per person per day;
 - 7) Take or possess any kole during the closed spawning season of March through June;

It will be unlawful to:

- 8) Spear any uhu at night using any gear type;
- 9) Take or possess any uhu 'ele'ele or any uhu uliuli;
- 10) Take or possess any uhu 'ahu'ula or uhu pālukaluka during the months of March through May;
- 11) Take or possess more than one uhu 'ahu 'ula or uhu pālukaluka per person per day during the open season (June through February); and
- 12) Take or possess more than three of any other uhu provided that only one of the three may be a terminal-phase uhu.

Additionally, it will be unlawful for any person to engage in the act of aquarium fishing or to take marine life for aquarium purposes within the CBSFA. This section also recognizes that native Hawaiian traditional and customary rights recognized under article XII, section 7, of the Hawaii State Constitution shall not be abridged.

Section 13-60.XX-5 prescribes the activities that are allowed and prohibited in the following areas:

- The 'Ōpelu Traditional Management Zone extends from Nāpōhakuloloa in the north to Kāki'o Point in the south, from the shoreline out to the 100-fathom depth contour. Within the 'Ōpelu Traditional Management Zone: It will be unlawful to take any 'ōpelu using any method other than hook-and-line fishing from February through August;
- 2) Pu'uhonua Pāpā extends from Lae o Kamimi in the north to Makahiki Point in the south; Pu'uhonua Honomalino extends from Kapulau in the north to Pūke'oke'o in the south; Pu'uhonua Kapu'a extends from Kalapili in the north to Kāki'o Point, Kaupō in the south; Pu'uhonua Manukā extends from

Kamoi Point in the north to the south end of Manukā Bay; and all Pu'uhonua extend from the shoreline out to the 100-fathom depth contour. Within the four Pu'uhonua (Pāpā, Honomalino, Kapu'a, and Manukā): All fishing will be prohibited except fishing from shore using throw net, scoop net, and hookand-line fishing methods, fishing from a vessel using hook-and-line fishing method, fishing using a pole spear, and fishing for akule pursuant to Hawaii Administrative Rules §13-75-12.2 and §13-95-19. Additionally, it will be unlawful to harvest any 'opihi;

- 3) The Pāku'iku'i Rest Area is indicated by the striped orange line on the map; It extends from Makahiki Point in the north to Pūke'oke'o in the south and overlaps the Pu'uhonua Honomalino and Puakai'a Miloli'i subzones. Within the Pāku'iku'i Rest Area, it will be unlawful to take or possess any pāku'iku'i;
- 4) Puakai'a Miloli'i is indicated by the area shaded light blue on the map; It extends from Kapukawa'aiki in the north to Lae Loa in the south, from the shoreline to the 100-fathom depth contour. Within Puakai'a Miloli'i, it will be unlawful to use or possess any spear except for a pole spear, to spear any uhu, pāku'iku'i, weke 'ula, moano kea, or 'ū'ū, or to fish using a lay net at night (Note: Statewide rules already prohibit use of lay nets at night).

Section 13-60.XX-6 carves out an exception allowing vessels in possession of restricted gear or species to traverse through the CBSFA as long as they remain in active transit.

Section 13-60.XX-7 establishes the administrative and criminal penalties that may be imposed for violations of this chapter.

Section 13-60.XX-8 recognizes the State's asset forfeiture authority as an enforcement tool for violations of this chapter. This section will facilitate enforcement of this chapter by providing the Department with the appropriate range of tools to deter violations.

TRANSITION: "This concludes the overview of the proposed rules... We have now reached the testimony portion of this presentation..."

VI. Testimonies

A. Everyone who has signed up to testify should already be admitted into the Zoom virtual meeting room. As I call your name, please unmute your microphone, turn on your camera, and give your testimony. When you are giving testimony, please help us facilitate accurate record-keeping by stating your name and place of residence; Also, please state clearly whether you support, oppose, or have no position on the proposed rule. **REMINDER**: Please keep your testimony to 3 minutes in order to ensure that everyone who signed up has a chance to give testimony. If there is extra time at the end of everyone on the list and you would like more time to testify, we will allow those who already spoke to give additional testimony. [Names were called]

according to the sign-up sheet. Please visit the DAR YouTube Channel at https://youtu.be/Lf0J7snVFjM for the full recording of the testimony given at this public hearing

B. <u>Late testimonies</u>: Persons unable to attend today or wishing to present additional comments may submit written testimony to us through e-mail or letter by Friday May 6, 2022.

Please email testimonies to:

DLNR.Aquatics@hawaii.gov

Please mail testimonies to:

Department of Land and Natural Resources Division of Aquatic Resources 1151 Punchbowl Street, Room 330 Honolulu, HI 96813

VII. <u>Decision-Making on the Proposal:</u>

- A. Based on the testimonies presented, the Department will submit its findings and recommendations to the Board of Land & Natural Resources.
- B. If approved by the Board, the Department of the Attorney General will conduct a final legal review. If approved, the proposed rules will be given to the Governor for his final approval.
- C. Should the Governor grant approval, certified copies will be filed with the Lt. Governor's office, and after 10 days, it becomes effective as law.
- D. Are there any questions regarding this process?

VIII. Adjournment

A. On behalf of the Board of Land and Natural Resources and DAR, thank you for attending this virtual public hearing. This public hearing is now adjourned.

Time: 4:39 p.m.

B. Thank you for taking time out from your day to attend this hearing.

MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA, HAWAI'I HAWAII ADMINISTRATIVE RULES 13-60.10 PUBLIC HEARING MINUTES (IN-PERSON)

Public Hearing Script Adoption of Hawaii Administrative Rules CHAPTER 13-60.10

Miloli'i Community-Based Subsistence Fishing Area, Hawai'i

Hearing Location: Miloli'i Beach Park Pavilion

89-1825 Miloli'i Road

Captain Cook, Hawai'i 96704

Hearing Date: April 20, 2022, 5:30 p.m.

I. Introduction

A. Opening

1. It is now 5:30 p.m. and this Public Hearing is called to order.

- 2. This is a formal public hearing on the proposed adoption of Hawaii Administrative Rules, Chapter 13-60.XX, relating to the Miloli'i Community-Based Subsistence Fishing Area, Hawai'i (referred to as the "Miloli'i CBSFA"). The proposed rules would establish fishing regulations for the Miloli'i CBSFA, which will be discussed in more detail a little later on in this hearing.
- 3. Copies of the proposed rules are available at the table near the entrance.
- 4. My name is Chris Teague, and I am the Kona Aquatic Biologist for the Division of Aquatic Resources here on Hawai'i Island; I will be conducting tonight's public hearing. With me is Luna Kekoa, Holomua 30x30 Coordinator and CBSFA Planner for the Division of Aquatic Resources (DAR).

B. Purpose

- 1. The purpose of this hearing is to provide the public the opportunity to provide comments in the form of oral and written testimony on these proposed administrative rules relating to the Miloli'i CBSFA.
- 2. I hope that all of you have signed in. If you have not, please do so. We have to make a complete record of all persons attending this hearing.
- 3. There is also a separate sheet to sign in for those wishing to present testimony on the proposed rule changes. If you would like to submit oral testimony tonight, please sign in now.
- 4. When it is time to testify, I will call the names in the order that they are listed on the sign-in sheet.

TRANSITION: "Now I will provide you with some background information on the rule package that we will be presenting today..."

II. Background

In 1994, the State Legislature enacted Act 271, codified as Hawaii Revised Statutes ("HRS") §188-22.6 which authorizes DLNR to designate community-based

subsistence fishing areas (referred to as "CBSFAs") through administrative rulemaking "for the purpose of reaffirming and protecting fishing practices customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion. The statute provides requirements and criteria for the submission of CBSFA designation proposals and a management plan to DLNR for consideration. In 2005, Miloli'i became the first permanent, legislatively designated CBSFA in Hawai'i through Act 232. From 2015 to 2020, Kalanihale, a grassroots non-profit organization formed by the families and residents of Miloli'i, held numerous publicly advertised community workshops and meetings to provide on-island community outreach and engagement to discuss the Miloli'i CBSFA proposal. Upon careful review of the draft management plan and following the numerous community-led public workshops and meetings, DLNR's Division of Aquatic Resources (also known as "DAR") conducted its own statewide public scoping on December 16, 2021. DAR staff received numerous questions, comments, and suggestions at the statewide public scoping.

In February of 2021, following the DAR-led statewide scoping, DAR received a finalized proposal, management plan, and administrative record from Kalanihale for the designation of the Miloli'i CBSFA to ensure abundant stocks of priority species and high-quality fishing now and in the future for residents and visitors to Miloli'i and to reaffirm and perpetuate fishing practices that were customarily and traditionally exercised for Native Hawaiian subsistence, culture, and religion along the southwest coast of Hawai'i Island. The proposed CBSFA extends from Pa'akai Point at Kīpāhoehoe in the north to Kaunā in the south, from the shoreline out to the 100-fathom depth contour, and includes the following sub-zones: the 'Opelu Traditional Management Zone, the Pu'uhonua Pāpā, the Pāku'iku'i Rest Area, Puakai'a Miloli'i, the Pu'uhonua Honomalino, the Pu'uhonua Kapu'a, and the Pu'uhonua Manukā. The proposed rules would establish bag limits, size limits, seasonal closures, and/or gear restrictions for 'a'ama crab, kole, 'opihi, pāku'iku'i, uhu, ula, and 'ū'ū within the CBSFA; prohibit the take of marine life for aquarium purposes within the entire CBSFA; establish additional restrictions on certain activities and species within the designated subzones; provide an exception allowing vessels in possession of restricted gear or species to traverse through the CBSFA as long as they remain in active transit; identify authorized administrative, criminal, and civil penalties for violations of this new chapter; and provide notice of the State's authority to utilize civil asset forfeiture as an enforcement tool for violations of this new chapter. At the Board of Land and Natural Resources meeting on February 25, 2022, the board approved these rules to go to public hearing, however, the Board amended the rules from the rules originally proposed by Kalanihale by extending the southern boundary of the Pāku'iku'i Rest Area to include the Pu'uhonua Honomalino, reducing the bag limit for pāku'iku'i from five per person per day to one per person per day, and adding clarifying definitions; The resulting rules package is what we will be presenting to you today.

Approvals to conduct this public hearing have been obtained from the Board of Land and Natural Resources on February 25, 2022 and from Governor Ige on March 16, 2022.

As mentioned earlier, copies of the administrative rules are available for inspection at the table near the entrance. During this hearing we want to record your thoughts on this proposal.

III. Notice of public hearing

A. The Legal Notice of this public hearing was published in the March 20, 2022, Sunday issue of the Honolulu Star-Advertiser.

IV. Hearing procedures

- A. This hearing will be conducted as follows:
 - 1. I will explain the proposed rules.
 - 2. Then the public hearing officer will call on those who have signed up to testify as they are listed on the sign in sheet.
 - 3. Please keep your testimony brief and on the subject in order to allow all those who came today, the opportunity to testify. Each person will be given up to 3 minutes to provide their testimony.
 - 4. After those who signed up have presented their testimonies and if time allows, the public hearing officer will ask if anyone else wishes to testify.
 - 5. Please be mindful that we are recording this hearing. In order to facilitate accurate record keeping of the proceedings, please state your name for the record before giving your testimony and please speak clearly into the microphone. Upon conclusion of this hearing, this recording will become part of the administrative record and will be made publicly available.
 - 6. Please remember to respect the opinions of all testifiers. This hearing is not an opportunity for accusations or rebuttals. There may be differing opinions. Please direct your testimony to the public hearing officer only.

TRANSITION: "I will now provide a summary of the proposed Administrative Rules..."

V. <u>Rule Explanation</u>

The proposed rules establish fishing regulations for the Miloli'i Community-Based Subsistence Fishing Area, Hawai'i.

Section 13-60.XX-1 describes the purpose of this new rule chapter. Section 13-60.XX-2 provides definitions for a number of key terms used in this chapter, including the names of regulated marine life and the various types of regulated fishing gear and methods.

Section 13-60.XX-3 delineates the boundaries of the Miloli'i CBSFA to include the portion of the southwest coast of Hawai'i Island consisting of all state waters and submerged lands from Pa'akai Point at Kīpāhoehoe in the north to Kaunā in the south, from the shoreline out to the 100-fathom depth contour. The 'Ōpelu Traditional

Management Zone, the Pu'uhonua Pāpā, the Pāku'iku'i Rest Area, Puakai'a Miloli'i, the Pu'uhonua Honomalino, the Pu'uhonua Kapu'a, and the Pu'uhonua Manukā are established as subzones within the Miloli'i CBSFA.

We will discuss the various subzones later on in the presentation.

Section 13-60.XX-4 prescribes the permitted and prohibited activities within the Miloli'i CBSFA. The regulations in this section have been crafted to set stricter bag limits, size limits, and gear restrictions to prevent over-harvesting while allowing for the continuance of fishing and harvesting practices that are customarily and traditionally exercised for native Hawaiian subsistence, culture, and religion within the area. Within the CBSFA it will be prohibited to:

- 1) Take or possess 'a'ama crabs with eggs;
- 2) Take or possess any kō'ele;
- 3) Take or possess more makaiauli and 'ālinalina (with shell attached) than can fit in a one-gallon-sized bag per person per day;
- 4) Take or possess more than two ula (spiny lobster) per person per day;
- 5) Take or possess any 'ū'ū (menpachi) from April through June;
- 6) Take or possess any pāku'iku'i or kole less than five inches in length with a maximum allowable take or possession of one pāku'iku'i per person per day and a maximum allowable take or possession of twenty kole per person per day;
- 7) Take or possess any kole during the closed spawning season of March through June;
- 8) Spear any uhu at night using any gear type;
- 9) Take or possess any uhu 'ele'ele or any uhu uliuli;
- 10) Take or possess any uhu 'ahu'ula or uhu pālukaluka during the months of March through May;
- 11) Take or possess more than one uhu 'ahu 'ula or uhu pālukaluka per person per day during the open season (June through February); and
- 12) Take or possess more than three of any other uhu provided that only one of the three may be a terminal-phase uhu.

Additionally, it will be unlawful for any person to engage in the act of aquarium fishing or to take marine life for aquarium purposes within the Area. This section also recognizes that native Hawaiian traditional and customary rights recognized under article XII, section 7, of the Hawaii State Constitution shall not be abridged.

Section 13-60.XX-5 prescribes the activities that are allowed and prohibited in the following areas:

- 1) The 'Ōpelu Traditional Management Zone extends from Nāpōhakuloloa in the north to Kāki'o Point in the south, from the shoreline out to the 100-fathom depth contour. Within the 'Ōpelu Traditional Management Zone: It will be unlawful to take any 'ōpelu using any method other than hook-and-line fishing from February through August;
- 2) Pu'uhonua Pāpā extends from Lae o Kamimi in the north to Makahiki Point in the south; Pu'uhonua Honomalino extends from Kapulau in the north to

Pūke'oke'o in the south; Pu'uhonua Kapu'a extends from Kalapili in the north to Kāki'o Point, Kaupō in the south; Pu'uhonua Manukā extends from Kamoi Point in the north to the south end of Manukā Bay; and all Pu'uhonua extend from the shoreline out to the 100-fathom depth contour. Within the four Pu'uhonua (Pāpā, Honomalino, Kapu'a, and Manukā): All fishing will be prohibited except fishing from shore using throw net, scoop net, and hookand-line fishing methods, fishing from a vessel using hook-and-line fishing method, fishing using a pole spear, and fishing for akule pursuant to Hawaii Administrative Rules §13-75-12.2 and §13-95-19. Additionally, it will be unlawful to harvest any 'opihi;

- 3) The Pāku'iku'i Rest Area is indicated by the striped orange line on the map; It extends from Makahiki Point in the north to Pūke'oke'o in the south and overlaps the Pu'uhonua Honomalino and Puakai'a Miloli'i subzones. Within the Pāku'iku'i Rest Area, it will be unlawful to take or possess any pāku'iku'i; and
- 4) Puakai'a Miloli'i is indicated by the area shaded light blue on the map; It extends from Kapukawa'aiki in the north to Lae Loa in the south, from the shoreline to the 100-fathom depth contour. Within Puakai'a Miloli'i, it will be unlawful to use or possess any spear except for a pole spear, to spear any uhu, pāku'iku'i, weke 'ula, moano kea, or 'ū'ū, or to fish using a lay net at night (Note: Statewide rules already prohibit use of lay nets at night).

Section 13-60.XX-6 carves out an exception allowing vessels in possession of restricted gear or species to traverse through the CBSFA as long as they remain in active transit.

Section 13-60.XX-7 establishes the administrative and criminal penalties that may be imposed for violations of this chapter.

Section 13-60.XX-8 recognizes the State's asset forfeiture authority as an enforcement tool for violations of this chapter. This section will facilitate enforcement of this chapter by providing the Department with the appropriate range of tools to deter violations.

TRANSITION: "We have now reached the testimony portion of this presentation..."

VI. Testimonies

A. As I call your name, please come to the microphone, state your name and place of residence, and state clearly whether you support, oppose, or have no position on the proposed rule. REMINDER: Please keep your testimony to 3 minutes in order to ensure that everyone who signed up has a chance to give testimony. If there is extra time at the end of everyone on the list and you would like more time to testify, we will allow those who already spoke to give additional testimony. Names were called according to the sign-up sheet.

Please visit the DAR YouTube Channel at https://youtu.be/4nJPfUtCH0g for the full recording of the testimony given at this public hearing

B. <u>Late testimonies</u>: Persons unable to attend today or wishing to present additional comments may submit written testimony to us through e-mail or letter by Friday May 6, 2022.

Please email testimonies to:

DLNR.Aquatics@hawaii.gov

Please mail testimonies to:

Department of Land and Natural Resources Division of Aquatic Resources 1151 Punchbowl Street, Room 330 Honolulu, HI 96813

VII. Decision-making on the proposals

- A. Based on the testimonies presented, the Department will submit its findings and recommendations to the Board of Land & Natural Resources.
- B. If approved by the Board, the Department of the Attorney General will conduct a final legal review. If approved, the proposed rules will be given to the Governor for his final approval.
- C. Should the Governor grant approval, certified copies will be filed with the Lt. Governor's office, and after 10 days, it becomes effective as law.
- D. Are there any questions regarding this process?

VIII. Adjournment

- A. On behalf of the Board of Land and Natural Resources and DAR, thank you for attending this public hearing. This public hearing is now adjourned. Time: 8:33 p.m.
- B. Thank you for taking time out from your day to attend this hearing.

MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA, HAWAI'I HAWAII ADMINISTRATIVE RULES 13-60.10 WRITTEN TESTIMONY

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Written Testimony

Support to adopt the rules package for the Miloli'i Community-Based Subsistence Fishing Area

Miloli'i Beach Park Pavilion Wednesday, April 20 5:30pm

Email: DLNR_Aquatics@hawaii.gov

Aloha, my name is James Akau. I have been blessed over the course of my life with the opportunity to spend time in the special wahi kūpuna of Miloli'i and it's neighboring ahupua'a. As a youth, one of my most memorable experiences was camping at the beach in Honomalino and fishing for pelagics offshore. Being from Ka'ū, the neighboring moku, I would come down with my brothers and friends to practice subsitence fishing. Miloli'i has always been and continues to be a place where I seek asylum from the pervasive colonialistic impacts of the US.

Mahalo for this opportunity. I am here testifying in **SUPPORT** of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with recommendations.

I support the efforts of Kalanihale, of Miloli'i, South Kona in cooperation with the State Department of Land and Natural Resources and their community members to restore abundance to Miloli'i reefs and nearshore waters. The proposed Rules and Marine Management Plan for their Community-Based Subsistence Fishing Area (CBSFA) are critical for that restoration to occur and I support Kalanihale's Marine Management Plan.

The rural Hawaiian fishing village of Miloli'i, South Kona is home to kama'āina steadfast in traditional fishing practices and stewardship of their 'āina. They have and continue to rely upon fishing and gathering of marine resources for their subsistence and well-being. The health and resilience of the fishery is integral to ensure that subsistence, cultural, and religious practices continue for current and future generations.

Today, I am here providing testimony in support of the rules package.

- The traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by our kūpuna are the same landmarks we use today, and some have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i CBSFA Strategic & Planning Hui held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share our narrative, marine management plan, and proposed rules.
- Our protection standards we state in our narrative and in our rules package align with and reflect the protective standards of neighboring conservation lands, managed by both state agencies and non-government organizations.
- Grounded in a common goal to provide protection for 'āina and natural resources, the Miloli'i CBSFA Strategic Hui cultivates respectful and trusting relationships with agencies, partners, and communities that reflects our traditional values of mālama 'āina.

- Our message of traditional stewardship and commitment to incorporate modern methods are consistent in our narrative, our proposed CBSFA rules package and our practices. It further demonstrates our preparedness to co-manage our CBSFA with agencies and partners.
 - A CBSFA Marine Management organizational structure will be established to maintain our community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent our place-based knowledge and narrative, continuing traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki Miloli'i.

While requesting approval to hold this public hearing, the rules package proposed by our community was modified. Therefore, I provide recommendations on (2) specifics of the rules package regarding those changes.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to
 Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- o I support Miloli'i's appeals for kapu loa (no take) of pāku'iku'i throughout the CBSFA to be established until an agreed upon sunset date. This highest protection from kānaka behavior is our commitment to assisting the recovery of their abundance.

Miloli'i is home and piko, to the mauliauhonua. I hope that through the mālama of this place, the community there is able feed their people in perpetuity

Mahalo for allowing me to provide this testimony.



15 April 2022

Brian Neilson Administrator Division of Aquatic Resources (DAR) Department of Land and Natural Resources (DLNR) 1151 Punchbowl Street Room 330 Honolulu, HI 96813

Re: Miloli'i Community-based Subsistence Fishing Area (CBSFA) Rules and Management Plan

Aloha Administrator Neilson:

I write to strongly support the proposed management plan and rules submitted by the Kalanihale Foundation for the Miloli'i CBSFA. This CBSFA is a key part of Kalanihale Foundation's larger effort to manage reefs and the nearshore fishery in an area stretching from Kīpahoehoe Point to Kauna Point along the southwest shoreline of Hawai'i Island.

The families of Miloli'i Village and the surrounding areas have and continue to deeply rely upon fishing and gathering of marine resources throughout this area for their subsistence, well-being, religious and cultural practices. Thus the condition and resilience of the fishery is central to ensuring that these functions continue into the future.

The area proposed for this CBSFA has undergone severe declines in reef fish over the past two and more decades. We have published more than a decade of this decline, with DAR staff using the best available long-term field data, in the nearshore fishery in internationally peer-reviewed publications. This decline occurred *despite* the fact that the reef itself remains relatively intact, especially compared to other parts of Hawai'i island and the entire State. Unlike other reefs in the State of Hawai'i, coral bleaching and climate change have *not* proven to be a major factor behind the approximately 65% decline in nearshore fish stocks that we have documented in South Kona since 2008. For the proposed CBSFA area within South Kona District, land-sea pollutants (effluent) are also *not* responsible for this 65% decline in reef fish stocks. Instead, the cause of the decline *has* been overfishing, as documented in our studies and via extensive field-based observations. Furthermore, this overfishing issue has not been principally caused by

the Miloli'i Village, but rather by outside actors from all over the island, which is also documented in our field-based observations.

The proposed CBSFA is an ideal solution to address these challenges. While all areas of the CBSFA will remain open to fishing, new rules will focus on managing the types of fishing allowable, which will help to ensure the long-term sustainability of the reef fishery. The proposed management plan and rules create a win-win for Miloli'i Village and surrounding subsistence fishers, while also helping DLNR to achieve its new management commitment for the State's Holomua Marine 30x30 program. The plan achieves these multiscale goals with very reasonable rules as proposed, which will benefit the South Kona and Hawai'i Island community over the long run.

We need to manage reef ecosystems for the future of both Hawaiian and newcomer community members, and this CBSFA is an ideal management instrument for doing so. From the ASU Marine Science perspective, we remain committed to continued scientific support of the Kalanihale Foundation, CBSFA group, and their partners throughout the area.

Mahalo,

Gregory P. Asner PhD

Guyer & asne

Director

From: DLNR.AR.DLNR.Aquatics

Sent: Wednesday, April 27, 2022 1:40 PM

To:

Cc:

Subject: FW: Testimony of SUPPORT for Chapter 13-60.XX, Miloli'i CBSFA

Follow Up Flag: Follow up Flag Status: Flagged

From: Camille Barnett

Sent: Wednesday, April 27, 2022 12:03 PM

To: DLNR.AR.DLNR.Aguatics <dlnr.aguatics@hawaii.gov>

Subject: [EXTERNAL] Testimony of SUPPORT for Chapter 13-60.XX, Miloli'i CBSFA

To whom it may concern,

I am writing in support of the Rules Package for the Miloli'i CBSFA as proposed, with a kapu loa for Pāku'iku'i across the CBSFA for the 5 year period.

As a biologist who sees the value of protections and limitations to ensure sustainability of local fisheries, particularly with expanding populations and increased pressure directly and indirectly on Hawaii's reefs, I am in support of this rules package proposed by the community.

I realize much effort and thought has gone into creating this rules package by the local community with additional scientific support. However, I have also become aware of the fact, and regrettably so, that some of the elders within the community at Miloli'i were not consulted during the early stages of this process and have valuable mana'o that has not been considered nor incorporated into the rules package. For example, some of the proposed restrictions in permitted locations for collecting 'opihi may push fishers into more dangerous places for harvesting. It is my hope that comments from the kupuna and additional consultation within the Miloli'i Community be inclusive of the kupuna and additional families who have incredible knowledge of the area and a solid understanding of these resources.

Mahalo nui loa,

Camille Barnett

From: DLNR.AR.DLNR.Aquatics

Sent: <u>Friday, April 29,</u> 2022 12:03 PM

To:

Cc:

Subject: FW: [EXTERNAL] written Testimony for Milolii CBSFA

Follow Up Flag: Follow up Flag Status: Flagged

From: Giacomo Bernardi

Sent: Thursday, April 28, 2022 7:44 PM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov> Subject: [EXTERNAL] written Testimony for Milolii CBSFA

To whom it may concern,

Below is my written testimony in support of the Milolii CBSFA. Thank you!

Aloha, my name is Giacomo Bernardi. I am a marine biologist and work as a faculty in the Department of Ecology and Evolutionary Biology at the University of California Santa Cruz. I work on marine fish projects in French Polynesia (with the NSF LTER), in Micronesia (with One People One Reef), and do also research in other regions of the Pacific and Indian Ocean . I have a home in Milolii, and I teach in California. I also host marine focused field classes for college students, based from Milolii. We have worked with Kalanihale and Kaimi Kaupiko to share knowledge, management strategies and monitoring protocols as we teach and train youth. Together with my wife, Nicole Crane, who is also a marine biologist, I met Kaimi back in 2016 as I was learning about the work of Kalanihale, and the CBSFA efforts. I was very interested in the traditional fishing and dedication to management in the Milolii community. Kaimi and the Kalanihale collective were (are) so inspiring, and so dedicated to their mission, and opened their arms and generosity and willingness to share with me personally, and our students. Their dedication to their traditions, their community and to stewardship of land and sea is enduring.

I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments. The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did.

CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

 Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.

- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i held extensive outreach, public scoping, and peer review with various communities, students, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.
- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.
- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).
- Miloli'i is consistent in its narrative and proposed CBSFA rules package and practices, and this further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
 - o A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - o Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

Specific Rules Package: At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

o I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.

o I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua. As a marine conservation scientist, my opinion is that these make sense for the future protection of these species.

Miloli'i is a cultural kīpuka in South Kona and its' people are mauliauhonua, well established and descendants of old chiefs of Kapalilua. I support this subsistence fishing community in their kuleana to mālama 'āina and feed people now and into the future. This rules package reflects the sound rationale of their traditional fishing practices and expresses the intimate relationship they have with their 'āina.

Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA, Aloha!

Giacomo Bernardi 831-818-9461 bernardi@ucsc.edu

Giacomo Bernardi Professor, Department of Ecology and Evolutionary Biology University of California Santa Cruz Center for Ocean Health, Long Marine Lab 115 McAllister Way Santa Cruz, CA, 95060, USA

email: bernardi@ucsc.edu
http://bio.research.ucsc.edu/people/bernardi

Hannah Caddle 198 Awakea Road Kailua, HI 96734

May 6, 2022

Division of Aquatic Resources 1151 Punchbowl Street, Room 330 Honolulu, HI 96813-3088

Re: Testimony of SUPPORT for Chapter 13-60.XX, Miloli'i CBSFA

To whom it may concern,

My name is Hannah Caddle, and I am currently a law student at the William S. Richardson School of Law, University of Hawai'i at Manoa.

The Miloli'i CBSFA draft proposal rules and management plan is necessary to address the issue of the continuous decline in the abundance of key fish species that are important to the local community for consumption, cultural, economic, and social reasons, and to ensure that Miloli'i families and future generations will have the resources to continue to thrive through subsistence practices.

I support the Rules Package for the Miloli'i CBSFA as presented with comments.

I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay as designated as a pu'uhonua.

Furthermore, I support the pāku'iku'i species rule to reflect that of what the Miloli'i Community designates as they are the generational stewards of Kapalilua.

Thank you so much for the opportunity to testify.

Respectfully,

Hannah Caddle

Mark Cave May 6, 2022

I am Mark Cave, a resident of Kapolei on the island of Oahu. I am a student at the William S. Richardson School of Law, University of Hawaii at Manoa, at the end of my second year in the four-year-long Part Time Evening Program.

Following is my written testimony in response to the April 20 public hearings for the proposed Miloli'i Community-Based Subsistence Fishing Area (CBSFA).

From the oral testimony provided during the online public hearing on April 20, 2022, it was convincingly demonstrated that establishment of a CBSFA will greatly help the residents of Miloli'i Village meet their subsistence needs well into the future, and will strongly contribute to restoring and preserving the near-shore aquatic ecosystem throughout the southwest coast of Hawai'i island.

However, like several of those who provided oral testimony, I am extremely frustrated by the fact that the first CBSFA, at Hā'ēna (on the east coast of Hawai'i) was not officially inaugurated until twenty years after the 1994 passage of Act 271 (codified as section 188-2.6, HRS), authorizing DLNR to adopt administrative rules for establishing CBSFAs throughout the state¹; and that it will have taken another eight years to inaugurate the Miloli'i CBSFA!

In the face of accelerating negative consequences to near-shore marine environments from climate baking and plastics pollution, such an exceptionally slow pace of establishing CBSFAs does not auger well for the maintenance of stocks of flora and fauna sufficient to sustain native Hawaiian communities into the future.

I assert that is true even though Nature's lands, oceans and air are exceptionally resilient when given even a short breather with the right conditions to recover, as testified to by my fellow law school student Joseph Horton², and by Dr. Kuulei Rodgers, Hawaiian Institute of Marine Biology in Kaneohe.³ Sure, Nature is resilient and recovers remarkably well after insults, but the "breathers with the right conditions" have to be provided in sufficient quality, quantity and timeliness, especially if the insults are ever more impactful, more lasting and more frequent, as is the case with climate baking and plastics pollution!

I did some research into whether there have been efforts by DLNR and/or DAR, voluntarily or because of legislative persuasion or mandate, to speed up the process of identifying areas for

2. At approximately 1 hour and 4 minutes into the <u>online public hearing</u>, Mr. Horton referred to at least three research studies, including one in 2019 by NOAA, on the vulnerability of corral reefs to climate change in West Hawai'i: "The coral reefs located in the proposed MCBSFA were very resilient to climate change, due in large part to the conservation efforts protecting herbivore fish like the Uhu, Pāku'iku'i, and Kole"

^{1.} http://www.capitol.hawaii.gov/session2017/Bills/HB861_hd2_.pdf

^{3.} At approximately 1 hour and 23 minutes into the <u>online public hearing</u>, Dr. Rodgers talked about research she and others conducted on the efficacy of the Hā'ēna CBSFA: "The efficacy of the CBSFA continued in the years following the sharp decline [in abundance and biomass of fishes caused by a massive freshwater flood in 2018], again showing increases following the same pattern of the early years. Thus, we have determined that the overall management strategies employed at the Haena CBSFA have achieved their goals."

CBSFA designation, and then bringing the designated CBSFAs to full functioning status. So far, I have only found Hawai'i House Bill 861 HD2, 29th Leg. Reg. Sess. (Haw. 2017). Pertinent parts of the bill include:

The purpose of this Act is to establish a goal for the department of land and natural resources to designate and adopt 15 rules for the management of no fewer than five additional community-based subsistence fishery areas by December 31, 2025....

SECTION 2. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows: . . .

- (a) No later than December 31, 2025, the department shall designate no fewer than five community-based subsistence fishing areas throughout the State pursuant to section 188-22.6 and adopt applicable rules pursuant to chapter 91....
- (b) As soon as practical, but no later than December 31, 2018, the department shall publish a request or series of requests for proposals for designation and management of community-based subsistence fishing areas. . . .
- (c) As soon as practical, but no later than December 31, 12 2019, the department shall institute a process of consultation with the groups or organizations that submitted proposals considered under subsection (b), in addition to . . .
- (d) As soon as practical, but no later than December 31, 5 2025, the department shall adopt rules pursuant to chapter 91 to designate no fewer than five community-based subsistence fishing areas and provide for the management of each designated area. . . .
- (e) The department shall submit an annual report to the 4 legislature of the department's progress in complying with this section as well as any recommendations and proposed legislation no later than twenty days prior to the convening of each regular session, beginning with the regular session of 2018.
- (f) For the purposes of this section "Department" means the department of land and natural resources."⁴

During the limited time I have had before submitting this written testimony, I was not able to definitively confirm whether House Bill 861 HD2 (2017) or subsequent bills ever became law. I assume the answer is no. I also have not uncovered other evidence that DAR, on its own, is developing or has developed an action plan for bringing to existence a certain number of additional, fully functional CBSFAs according to a timeline or by specific dates. If such an action plan does not exist, I—and, I am sure, other stakeholders and concerned residents—plead that DAR and DLNR develop and implement one.

One other suggestion I proffer is that DAR and DLNR bring attention to the grave threat that plastics pollution poses to marine ecosystems, be they CBSFAs, Regional Fisheries Management Areas, Conservation Life Districts, or any other marine ecosystem, designated or undesignated. While the many facets of the problem of plastics pollution do not all fall under the purvue of DLNR and DAR, there are real and substantial negative impacts upon marine ecosystems, and—by extension—upon tradtional and cultural practices in subsistence fishing by native Hawaiian fishers. Therefore, it is incumbent upon all agencies involved in protecting and furthering conservation of

^{4.} H.B. 861 HD2, 29th Leg. Reg. Sess. (Haw. 2017), http://www.capitol.hawaii.gov/session2017/Bills/HB861_hd2_.pdf

Mark Cave May 6, 2022

Nature and climate baking mitigation to bring awareness of the problem and to assist in reducing or removing it. I suggest DLNR and DAR work with native Hawaiians on producing a strategic management plan for that, perhaps starting with public education on moving away from use of and reliance upon single-use plastics, like bags, straws, cups and lids, and fast food packaging and eating utensils. From that education there could be collaboration or guidance on pushing for legislation to demand or require that military installations stop providing plastic grocery bags, and that fast food and other restaurants stop putting carry out food in Styrofoam containers. The possibilities for advocacy and action against single use plastics are many and varied.

v/r,
Mark R. Cave
J.D. Candidate, Class of 2024
The University of Hawai'i at Manoa | William S. Richardson SOL
Email: mcave@hawaii.edu

Board of Land and Natural Resources 1151 Punchbowl Street Honolulu, Hawai'i 96813 blnr.testimony@hawaii.gov

RE: Support for the Miloli'i Community-based Subsistence Fishing Area (CBSFA) Marine Management Plan and proposed rules package which seeks to protect and manage marine resources, and to perpetuate and reaffirm their traditional and customary Kanaka 'Ōiwi fishing and management practices.

Aloha mai nei,

My name is Ulu Ching, I am a lineal descendant of the ahupua'a of Kawanui and Keauhou in North Kona and I humbly submit this written testimonty in **unequivocal support of the Miloli'i CBSFA marine management plan and rules package as submitted to the Department of Land & Natural Resources.**

As a kanu o Kona, I relate deeply to the connection to place that the 'ohana and kāiāulu of Miloli'i evoke in their sacred work to carry on the kuleana of mālama 'āina. I first started to visit Miloli'i regularly in 2016 when invited by the 'ohana to join their journey to mālama 'āina. Over the last six years my family and I have been blessed by the bounty of aloha provided by the 'ohana Miloli'i as well as the spiritual and physical nourishment that the 'āina aloha o Miloli'i provides. Their traditions and stories mirror my own 'ohana, where a sense of self is grounded in who and where we are of. Knowing that we are products of our one hānau is the dominant motivator to protect those and that which we love with conviction and fierceness.

Members of Kalanihale have taken up the mantle to mālama and demonstrate what it means to 'auamo kuleana. They do so with aloha, authenticity, and passion. Those three elements come directly from their kūpuna and are the fuel that has kept them going throughout this arduous journey. They have navigated 21st century management systems and processes while also finding ways to not only retain, but to also utilize and incorporate the values, practices, and principles that have sustained their community for generations in to their contemporary vision for health and abundance for their 'ohana and marine resources.

The time is now for action and the continued advancement of community-driven and place-based management in and for Hawai'i nei. The sense of urgency is, at times, overwhelming and there is an unprecedented alignment of community readiness and capacity, political will, and systems in place to support the implementation of the Miloli'i marine management plan and rules package. We must take advantage of this alignment. I am not naive to the challenges that lay ahead, but I am absolutely positive that the strength and unity of the 'ohana Miloli'i powered by the spirit of their kūpuna will continue to propel them on this journey.

These are important moments in the ongoing moʻolelo of our people. We are in a wā where Kanaka 'Ōiwi are elevated on to the global stage as leaders in environmental justice, decolonization of systems, and purveyors of aloha. Our moʻopuna will look back on these times in beautiful wonderment and find inspiration as they navigate the trials they face. What we build here is for them and so the Miloli'i CBSFA rules package must move forward to the next stage of decision-making.

Finally, at the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

Mahalo again for the opportunity to submit this testimony, I note again my steadfast support for the 'ohana Miloli'i and their efforts in caring for that which has been bestowed upon them and the kuleana that accompanies it.

Ke aloha mau,

Mana Rk

Moana P.K. Ching (Ulu) uluching@gmail.com

From: DLNR.AR.DLNR.Aquatics

Sent: Monday, April 25, 2022 7:20 AM

To: Cc:

Subject:

Flag for follow up

Flag Status: Flagged

From: Nicole Crane

Follow Up Flag:

Sent: Sunday, April 24, 2022 6:51 PM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov> **Subject:** [EXTERNAL] written Testimony for Milolii CBSFA

To whom it may concern, I had previously signed up for oral testimony on April 20, but was unable to attend. Below is my written testimony in support of the Milolii CBSFA. Thank you!

FW: [EXTERNAL] written Testimony for Milolii CBSFA

Aloha, my name is Nicole Crane. I am a marine biologist focusing on Pacific Island marine management, indigenous knowledge and practices, and building capacity for local leadership in conservation and management. I am the Co-Director of One People One Reef. We seek to elevate the voice and role of indigenous people in managing their coastal resources. I have a home in Milolii, and I teach in California. I also host marine focused field classes for college students, based from Miloli'i. We have worked with Kalanihale and Kaimi Kaupiko to share knowledge, management strategies and monitoring protocols as we teach and train youth. I met Kaimi back in 2016 as I was learning about the work of Kalanihale, and the CBSFA efforts. I was working further to the west in Micronesia, and was very interested in the traditional fishing and dedication to management in the Milolii community. Kaimi and the Kalanihale collective were (are) so inspiring, and so dedicated to their mission, and opened their arms and generosity and willingness to share with me personally, and our students. Their dedication to their traditions, their community and to stewardship of land and sea is enduring.

Mahalo for this opportunity. I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments. The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did.

CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.

- Miloli'i held extensive outreach, public scoping, and peer review with various communities, students, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.
- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.
- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).
- Miloli'i is consistent in its narrative and proposed CBSFA rules package and practices, and this further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
 - o A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

Specific Rules Package: At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- o I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- o I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua. As a marine conservation scientist, my opinion is that these make sense for the future protection of these species.

Miloli'i is a cultural kīpuka in South Kona and its' people are mauliauhonua, well established and descendants of old chiefs of Kapalilua. I support this subsistence fishing community in their kuleana to mālama 'āina and feed people now and into the future. This rules package reflects the sound rationale of their traditional fishing practices and expresses the intimate relationship they have with their 'āina.

Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA, Aloha!

Nicole Crane 831-818-9444 nicrane@onepeopleonereef.org

Nicole L. Crane Faculty, Cabrillo College Natural and Applied Sciences www.cabrillo.edu



Senior Conservation Scientist, Project co-lead One People One Reef onepeopleonereef.org From: DLNR.AR.DLNR.Aquatics

Sent: Wednesday, May 4, 2022 8:03 AM

To:

Cc:

Subject: FW: [EXTERNAL] Support for Miloli'i CBSFA

Follow Up Flag: Flag for follow up

Flag Status: Flagged

From: Robert Culbertson

Sent: Tuesday, May 3, 2022 9:10 PM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] Support for Miloli'i CBSFA

Aloha and congratulations to Kalanihale and the Community of Miloli'il

I applaud the perseverance and aplomb with which the Miloli'i community cleared a new pathway for future Community Based Subsistence Fishing (and other natural and cultural resource) management regimes.

Your partnership with the state had many hurdles to overcome. Most of all, you continue to demonstrate fidelity to traditional values that clearly put the interests of people living in and with marine ecosystems above and beyond the power of industrial enterprises such as the 'Aquarium fishery'.

More specifically, within the framework of representation and general procedures established by *Kalanihale*, I support the nuanced 'rules package' modified as:

- The Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- The pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

Mahalo for the opportunity to support this long awaited program!

R A Culbertson

Member, Big Island 'Reef Keepers' Hui

Honokaa

From: DLNR.AR.DLNR.Aquatics

Sent: Wednesday, April 20, 2022 1:05 PM

To:

Cc:

Subject: FW: [EXTERNAL] testimony in support of the Miloli'i Community-Based Subsistence Fishing Area

Follow Up Flag: Flag for follow up

Flag Status: Completed

From: Kirstie Daly

Sent: Tuesday, April 19, 2022 9:14 PM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] testimony in support of the Miloli'i Community-Based Subsistence Fishing Area

Aloha,

My name is Kirstie Daly . I currently work in Ahupua'a o Waipā Kauai. I am a part of the stewardship and propitiation of resource management of 1,600 acre valley owned by Bishop Estate. Resource management is of the utmost importance in our changing Hawaii. It is the kuleana of the community to manage these resources. I strongly urge DLNR to support this ability of generational stewards to insure the resources of our Hawaii stays intact for future generations. I support this project for Community based resource management.

Mahalo for this opportunity. I testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments.

The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did.

CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.

- Miloli'i held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.
- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.
- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).
- Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
 - o A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- o I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA.

Mahalo piha, Kirstie Daly

Maile Medeiros David

Council Chair Council District 6 (Portion N. S. Kona/Kaʻū/Volcano)



Phone: (808) 323-4277 Fax: (808) 329-4786 Email: maile.david@hawaiicounty.gov

HAWAI'I COUNTY COUNCIL

County of Hawaiʻi West Hawaiʻi Civic Center, Bldg. A 74-5044 Ane Keohokalole Hwy. Kailua-Kona, Hawaiʻi 96740

April 14, 2022

Department of Land and Natural Resources Aquatics Division <u>DLNR.Aquatics@hawaii.gov</u> Via Written Testimony

My name is Maile Medeiros David, Hawaii County councilmember representing the districts of S. Kona, Ka'u and portions of Volcano Village. I have been a participant in some of the scoping sessions for Miloli'i Fishing Village CBSFA and I am privileged to continue my advocacy.

Mahalo a nui loa for the opportunity to convey my support of Community Based Subsistence Fishing Area's creation of a rules package.

As a native Hawaiian of Kona I have witnessed cultural resource areas that historically sustained generations of Kona 'ohana, disappear. I strongly believe it is the duty of decision-makers to do everything we can to minimize impacts to our cultural resource areas and to protect and perpetuate the constitutional rights of native Hawaiians.

Miloli'i Fishing Village is an excellent example of a living cultural resource area where generations of 'ohana continue to engage in traditional and customary practices to sustain their 'ohana. Establishing a CBSFA for Miloli'i Fishing Village and surrounding areas are critically important and necessary to perpetuate these practices and malama these significant cultural resources.

Adoption of the rules package will send a positive and hopeful message to our people who have endured generational challenges and loss of critical subsistence areas. I also wish to express my sincere mahalo a nui loa to Kevin Chang, uncle Mac Poepoe, and uncle Pressly Wann for their insight, dedication, and contributions in formulating and supporting CBSFA. CBSFA begin the critical process of healing, revitalizing, preserving and perpetuating our unique and special cultural resources, and our constitutionally protected traditional and customary practices.

I humbly request your favorable consideration and continued support of CBSFAs and Miloli'i Fishing Village. Mahalo a nui loa. Aloha and Ahuihou.

Aloha,

Maile Wavid

Maile Medeiros David

Hawai'i County Councilmember

Council District 6

Division of Aquatic Resources Department of Land and Natural Resources 1151 Punchbowl Street, Room 330 Honolulu, HI 96813

May 5, 2022

Re: Written Testimony on Proposal to Adopt Hawaii Administrative Rules Chapter 13-60.XX

My name is Lake Davidson. I am a student at the William S. Richardson School of Law at the University of Hawai'i, and today I am writing in support of the adoption of HAR Chapter 13-60.XX.

I am originally from Arkansas and made the move to O'ahu about three years ago. I am particularly interested in the adoption of these rules as I believe they will contribute positively in the areas of sustainability and cultural resources.

Growing up, I witnessed first-hand how important conservation efforts and an ethical approach to the environment is as my father regularly harvested fish and other wildlife in order to sustain our family. The lessons he taught may not have been culturally Hawaiian, but I believe this guidance transcends culture. People of the Miloʻliʻi community with deeps roots are best equipped to manage the nearby fisheries. Furthermore, and perhaps inextricably tied, is the cultural importance of traditional Hawaiian fishing practices, and they should be preserved. Indigenous knowledge has been and remains to be unfortunately overlooked as an effective tool. With the proposed rules, there is at least an attempt in acknowledging the importance of cultural resources, and they have my full support.

Thank you for your consideration.

Kind Regards, Lake Davidson From: DLNR.AR.DLNR.Aquatics

Sent: <u>Thursday, May 5,</u> 2022 8:09 AM

To:

Cc:

Subject: FW: [EXTERNAL] Testimony for MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA (CBSFA)

Follow Up Flag: Follow up Flag Status: Flagged

From: Bob Douglas

Sent: Thursday, May 5, 2022 7:21 AM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] Testimony for MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA (CBSFA)

Aloha,

I am testifying in favor of the MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA (CBSFA).

I am malihini, married to a lineal descendant of Miloli'i, our children are lineal descendants.

I've lived in Hawai'i off and on since 1980. The depletion of near shore fish and turtles over this time has been depressingly noticeable. The decimation of coral reefs and the absence of seaweed has become an environmental emergency. 40 years ago turtles were a common sight in Miloli'i. I haven't seen one in Miloli'i in decades.

We must give nature a chance to recover or we may not survive as a species. Listen to the kūpuna and the ocean, do the right thing and approve this CBSFA for all of us.

Mahalo nui loa,

Bob Douglas <u>danhieux18@icloud.com</u> Instagram.com/danhieux 808 333-0402

Aloha, my name is _	Bob Darglag	and I'm from Hile, HI

Mahalo for this opportunity. I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments.

The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did.

CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.
- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.
- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).

- Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
 - A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

Miloli'i is a cultural kīpuka in South Kona and its' people are mauliauhonua, well established and descendants of old chiefs of Kapalilua. I support this subsistence fishing community in their kuleana to mālama 'āina and feed people now and into the future. This rules package reflects the sound rationale of their traditional fishing practices and expresses their intimate relationship they have with their 'āina.

Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA, Aloha!

Ture 4 020 .22

1267 Audae Rd Hilo, HI 96720

Miloli'i, Kapalilua, Moku O Keawe

80813331-0402

From: DLNR.AR.DLNR.Aquatics
Sent: Friday, May 6, 2022 11:22 AM

To:

Cc:

Subject: FW: [EXTERNAL] Testimony of SUPPORT for Chapter 13-60.XX, Miloli'i CBSFA

From: Monika Frazier

Sent: Friday, May 6, 2022 10:22 AM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] Testimony of SUPPORT for Chapter 13-60.XX, Miloli'i CBSFA

Aloha,

I am writing as a native Hawaiian who was born and raised on Hawai'i Island and spent much of my childhood learning from and spending time on the shores and ocean at Miloli'i. I am writing in support of the establishment of the Miloli'i CBFSA, and I am in support of the Miloli'i Community's views regarding the best practices for the fisheries that they steward. I support the Rules Package for the Miloli'i CBSFA as presented with comments. I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua. And, I support the pāku'iku'i species rule to reflect that of what the Miloli'i Community designates, as they are the generational stewards of Kapalilua.

I have always looked up to the fishermen and fisherwomen of Miloli'i as experts of their area and their practice. I am so proud to see their community come together to advocate for the health of their 'āina, kai and kānaka. I urge you to hear their voices, and to support them in the establishment of the CBFSA with the rule changes that they are asking for. No one has the in-depth knowledge of these fisheries aside from the community who spends every day observing the water, weather and marine life, so it is imperative that we look to these experts--the community members--as these decisions are made.

Mahalo for taking this testimony into consideration.

Aloha,

Monika Frazier

Aloha

My name is Samuel Keoni Grace. I was born November 22, 1948. I lived in Miloli'i all my life. I support my 'ohana and the Miloli'i CBSFA. With the acceptions that DLNR and BLNR adheres to the communities request pertaining to the Pakuikui Rest Area, the KAPU LOA of harvesting these species within the entire Milolii CBSFA, and allowing the 'ohana Miloli'i CBSFA to be the ones to lift that kapu at an agreed upon time with a bag limit of its original request, 5.

I use to go fishing with my grandparents when I was very young. We use to fish seasonal. My grandparents and parents taught me when and where to fish.

I belief the people of Miloli'i should be able to manage this fishery because they have generations of knowledge that no one else would have. They know the life cycles of the fish, and they have been monitoring the numbers. The people of Miloli'i will and have done whatever they can to preserve fisheries

Mahalo nui, Sam Grace Jr.

May 6, 2022

Administrator Neilson and the Department of Aquatic Resources,

I. Introduction

My name is Joseph Horton and I live in Aiea, Hawaii on the island of O'ahu, and have done so with my family since 2018. I am a current LL.M., Master of Laws, candidate studying Environmental Law at the University of Hawaii Richardson School of Law. I provide this testimony today to strongly support the proposed Miloli'i Community-Based Subsistence Fishing Area and the regulations that would ensure the continued preservation of both the marine environment and traditional Native Hawaiian Fishing practices of the Miloli'i Area.

I first learned of the Miloli'i CBSFA while attending Prof. Antolini's Domestic and Hawaii Ocean and Coastal Law Class in March of this year. DAR Legal Fellow Kali'i Sangum and Marine Biologist Stacia Marcoux presented the purpose, history, and upcoming regulations of the Miloli'i CBSFA. The State, DAR, and the Miloli'i Community impressed me for working together to protect the local marine flora and fauna while also ensuring the continuation of traditional Native Hawaiian Fishing practices that have taken place at the Miloli'i fishing village for the past five centuries.

II. Argument

It is my fervent belief that the Miloli'i CBSFA proposed regulations will go a long way in conserving the delicate marine environment in the nearshore waters off the Hawaii Southwest coast. NOAA completed a 2019 study on the vulnerability of coral reefs to climate change in West Hawaii. That report revealed that the coral reefs found in the proposed Miloli'i CBSFA were very resilient to climate change due in large part to conservation efforts protecting

herbivore fish like the uhu, parrot fish, paku'iki'i, Achilles Tang, and kole, or Surgeon Fish in the area.

A 2017 report from the Smithsonian Tropical Research Institute found that coral reefs grow faster and healthier when parrotfish, like the uhu, are abundant.¹ This is because they clean the coral of excess algae that often grows on weakened coral systems. By removing excessive algae, marine herbivores like the uhu, paku'iki'i, and kole, will enable the coral reefs near Miloli'i to bounce back from periodic bleaching events and to grow stronger than before.² A similar 2017 report from the Scripps Institution of Oceanography at the University of California and San Diego found that fossil records of parrotfish teeth near Caribbean coral reef systems strongly suggest that coral reefs that have more algae eating fish present, grow much faster and stronger than reef systems that lack such herbivores.³ In 2019, a group of researchers monitoring a resilient coral reef off the island of Bonaire in the Caribbean Sea for fifteen years noted how marine herbivores like the parrotfish enabled the reef to fully recover from mortality events in 2008 from a hurricane and a bleaching event in October 2010.⁴ All this scientific research strongly supports the propose Miloli'i CBSFA regulations that protect marine herbivores.

¹ <u>See</u> Kuempel, C. D. and Altieri, A. H. <u>The emergent role of small-bodied herbivores in preempting phase shifts on degraded coral reefs</u>, Sci. Rep. 7, 39670; doi: 10.1038/srep39670 (2017), https://www.nature.com/articles/srep39670.pdf

 ² See id.
 ³ Katie L. Cramer, Aaron O'Dea, Tara R. Clark, Jian-xin Zhao, Richard D. Norris. <u>Prehistorical and historical declines in Caribbean coral reef accretion rates driven by loss of parrotfish</u>, Nature Communications, (2017); 8: 14160 DOI 10.1038/ncomms14160

⁴Steneck RS, Arnold SN, Boenish R, de León R, Mumby PJ, Rasher DB and Wilson MW, Managing Recovery Resilience in Coral Reefs Against Climate-Induced Bleaching and Hurricanes: A 15 Year Case Study From Bonaire, Dutch Caribbean, Frontier. Marine. Science. 6:265. doi: 10.3389/fmars.2019.00265 (2019),

https://www.frontiersin.org/articles/10.3389/fmars.2019.00265/full

That said, fish like the uhu, paku'iki'i and Kole have long been a staple of Native
Hawaiian fishers and their families in the area. Traditional fishing practices are well known to be
far less destructive than western commercial fishing analogues. Furthermore, traditional native
Hawaiian fishers know from generations of teaching, how to best maintain local fisheries. They
know the best time to catch these fish, the proper sizes of these fish for catching versus releasing,
and the catch limits which the stocks can endure. The limits of the proposed regulations are
based on the oral testimonies of many Miloli'i Community Residents including dozens of local
Native Hawaiian fishers who have fished the area for decades. As such, I trust that the proposed
regulations, as amended by the Miloli'i Community members, will conserve not only the vital
marine flora and fauna of the area, but also allow current and future generations of Native
Hawaiian Fishers to continue their traditional fishing practices which provides food for their
families and the education of future generations.

Department of Aquatic Resources (DAR) has a constitutional duty to conserve and protect Hawai'i's natural resources including water and marine resources and to hold these natural resources in trust for the benefit of the people. DAR also has the constitutional duty to "protect all rights, customarily and traditionally exercises for subsistence, cultural and religious purposes and possessed ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778" like the Kanaka Maoli whose family have live in the Miloli'i area for generations. These proposed regulations for the Miloli'i CBSFA are in keeping with the State's and DAR's constitutional duties to protect, preserve, and conserve the vital natural and cultural resources.

⁵ Haw. Const. Art. XI § 1.

⁶ Haw. Const. Art. XII § 7.

Finally, I support the proposed regulations because they will allow the Miloli'i fishing community to flourish and grow. For over 500 years the residents of Miloli'i fishing village have fished these local waters. They have educated many generations of fishers, fed their families, and shared native Hawaiian practices and customs with visitors who care to experience the living Hawaiian culture. Regulating the fishing in the Miloli'i area with the proposed regulations will allow the Miloli'i community to continue these vital efforts, continue constitutional protected practices a teach others of the Hawaiian culture and the importance of mālama aina, taking care of the land.

My only constructive comment on the proposed regulations is the adding of a definition for the term "lay nets" as used in section 13-60.XX-5. I am not a fisher, but a lawyer by trade. I am sure fishers know what a lay net is, but as a non-fisher, I do not. To ensure all people understand the proposed regulations, I respectfully recommend that you add a definition to this term to ensure compliance for all.

In conclusion, I strongly support the proposed regulations for the Miloli'i Community Based Subsistence Fishing Area as they will keep the Native Hawaiian customs, conserve the marine ecology, and empower the vibrant and culturally significant community of Miloli'i. For these reasons, I ask that you please adopt the proposed regulations for Miloli'i CBSFA as amended by the lineal descendants of the Miloli'i fishing community which includes a total kapu, or prohibition, of fishing paku'iki'i within the CBSFA. Thank you for your time.

Very Respectfully,

J.P. HORTON

From: DLNR.AR.DLNR.Aquatics

Sent: Wednesday, April 27, 2022 1:41 PM

To: Cc:

Subject: FW: [EXTERNAL] Written testimony in support of the rules package for Miloli'i CBSFA

Follow Up Flag: Follow up Flag Status: Flagged

From: Annie Innes-Gold

Sent: Wednesday, April 27, 2022 12:09 PM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] Written testimony in support of the rules package for Miloli'i CBSFA

Aloha,

My name is Annie Innes-Gold, and I live in Honolulu.

Mahalo for this opportunity. I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments. The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did. CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.

- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.
- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).
- Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
 - A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- o I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

Miloli'i is a cultural kīpuka in South Kona and its' people are mauliauhonua, well established and descendants of old chiefs of Kapalilua. I support this subsistence fishing community in their kuleana to mālama 'āina and feed people now and into the future. This rules package reflects

the sound rationale of their traditional fishing practices and expresses their intimate relationship they have with their 'āina.

Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA, Aloha!

Annie Innes-Gold

Aloha, my name is	: Kealor	a Kahiw	and I'm from	Milol	11
					

Mahalo for this opportunity. I am here testifying in **SUPPORT** of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with recommendations.

My 'ohana are generational stewards of Miloli'i. Our kūpuna and 'ohana have always been well established in this area of Miloli'i, Ho'ōpūloa, and throughout Kapalilua. Today, we continue to 'auamo our kuleana to mālama 'āina, caring for the marine resources of this place. We continue to feed and maintain the ko'a of this coastline in the same way our kūpuna have done for generations.

We were granted CBSFA designation in 2005, and in 2019, Kalanihale represented our subsistence fishing village, making it known that we were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Our traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by our kūpuna are the same landmarks we use today, and some have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i CBSFA Strategic & Planning Hui held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share our narrative, marine management plan, and proposed rules.
- Our protection standards we state in our narrative and in our rules package align with and reflect the protective standards of neighboring conservation lands, managed by both state agencies and non-government organizations.
- Grounded in a common goal to provide protection for 'āina and natural resources, the Miloli'i CBSFA Strategic Hui cultivates respectful and trusting relationships with agencies, partners, and communities that reflects our traditional values of mālama 'āina.

- Our message of traditional stewardship and commitment to incorporate modern methods are consistent in our narrative, our proposed CBSFA rules package and our practices. It further demonstrates our preparedness to co-manage our CBSFA with agencies and partners.
 - A CBSFA Marine Management organizational structure will be established to maintain our community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent our place-based knowledge and narrative, continuing traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki Miloli'i.

While requesting approval to hold this public hearing, the rules package proposed by our community was modified. Therefore, I provide recommendations on (2) specifics of the rules package regarding those changes.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- Miloli'i appeals for kapu loa (no take) of pāku'iku'i throughout the CBSFA to be established until an agreed upon sunset date. This highest protection from kānaka behavior is our commitment to assisting the recovery of their abundance.

Miloli'i is my 'ohana home, our piko, and we are mauliauhonua – of this place. We mālama our 'āina and feed our people.

Mahalo for allowing me to provide this testime	ony.
Kendolna Kahinla	4/20/22
Kealoha Kahiuk	ar new francisco
Paddess BOX 704	Keglakekua
Miloli'i, Kapalilua, Moku O Keawe	94750
phone number	

Sheena Kaleohano 75-264 Aloha Kona Dr. Kailua Kona, Hi 96740 808-238-8926

04/20/2022

RE: Milolii CBSFA Proposal testimony

To Whom This May Concern,

My husband Alston Kaleohano Jr is a 3rd generation Opelu fisherman who has been fishing Opelu for over 30 years now. The areas that the Milolii CBSFA is trying to extend the prohibition for Opelu fishing are areas he grew up fishing and feeding and still feeds until today. He respects the Milolii community and what they are trying to do.

We agree and support many of the proposals BUT it needs some modifications:

I will start with the Opelu proposal.

I disagree and here is why; Opelu spawning season is usually March – August with majority of spawning May – July. My husband being an Opelu fisherman always observes the fish before he pulls fish. If the Opelu has eggs he respects that and will not net the fish. He is observant in that fact. Also, Juvenile Opelu usually habitat depths of 10-40 fathoms as matured adults appear deeper at 50-100 fathoms.

Which leads to my next modification of 18.6 miles with 11 sub zones is really confusing especially when the areas have so many names and are not documented clearly. Depths of 100 fathoms for a total of 12.6 sq. miles is really unessential.

I would like to see the area radius be smaller and more inshore from the proposed 100 fathoms to 50 fathoms and have better clarification of the boundaries with less sub-zones.

This will make it easier for everyone to help with the conservation and for enforcement officers as there are so many restricted areas on the west side of Hawaii Island already that enforcement officers cannot keep up.

As commercial fishing is my husbands "Bread and Butter" as he would say. We agree with sustainability, but this is his living and how he supports our family with that said we also must look at suppling fish for all instead of importing fish. We must look at Sustainability to continue fishing to provide for our family.

Thank you for your time and consideration.

Sheena Kaleohano

Aloha, my name is	Charles	M	Kaupi Kand I'm from	Milolii
)*				

Mahalo for this opportunity. I am here testifying in **SUPPORT** of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with recommendations.

My 'ohana are generational stewards of Miloli'i. Our kūpuna and 'ohana have always been well established in this area of Miloli'i, Ho'ōpūloa, and throughout Kapalilua. Today, we continue to 'auamo our kuleana to mālama 'āina, caring for the marine resources of this place. We continue to feed and maintain the ko'a of this coastline in the same way our kūpuna have done for generations.

We were granted CBSFA designation in 2005, and in 2019, Kalanihale represented our subsistence fishing village, making it known that we were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Our traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by our kūpuna are the same landmarks we use today, and some have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i CBSFA Strategic & Planning Hui held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share our narrative, marine management plan, and proposed rules.
- Our protection standards we state in our narrative and in our rules package align with and reflect the protective standards of neighboring conservation lands, managed by both state agencies and non-government organizations.
- Grounded in a common goal to provide protection for 'āina and natural resources, the Miloli'i CBSFA Strategic Hui cultivates respectful and trusting relationships with agencies, partners, and communities that reflects our traditional values of mālama 'āina.

- Our message of traditional stewardship and commitment to incorporate modern methods are consistent in our narrative, our proposed CBSFA rules package and our practices. It further demonstrates our preparedness to co-manage our CBSFA with agencies and partners.
 - o A CBSFA Marine Management organizational structure will be established to maintain our community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent our place-based knowledge and narrative, continuing traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki Miloli'i.

While requesting approval to hold this public hearing, the rules package proposed by our community was modified. Therefore, I provide recommendations on (2) specifics of the rules package regarding those changes.

- o I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- Miloli'i appeals for kapu loa (no take) of pāku'iku'i throughout the CBSFA to be established until an agreed upon sunset date. This highest protection from kānaka behavior is our commitment to assisting the recovery of their abundance.

Miloli'i is my 'ohana home, our piko, and we are mauliauhonua - of this place. We mālama our 'āina and feed our people.

Mahalo for allowing me to provide this testimony. upiko lahoa Huy Capt Cook H1 96704

Miloli'i, Kapalilua, Moku O Keawe

808-895-2083

Board of Land and Natural Resources 1151 Punchbowl Street Honolulu, Hawai'i 96813 Blnr.testimony@hawaii.gov

RE: Support of the Milolii CBSFA Public Hearing

Aloha kakou,

My name is Kaimi Kaupiko and I am the executive director of the non-Profit Kalanihale. We are the organization who put together the Management Plan and proposed Rules for the 18.6 Miles of pristine ocean front from Kipahoehoe reserve to Kauna point. This proposal is the hard work and dedication of our kupuna who have laid the foundation for our community and who put forth the efforts to malama the traditional fishing practices of Milolii. This is our time, this is our Promise to them - i ka wā ma mua i ka wā ma hope - the time In Front, the time in the back - looking to the time and people That have come before Us as the source of knowledge That Will Carry us In the future.

I am also a resident and lineal descendant of Miloli'i, this proposed rule package reflects our traditional practices passed down through generations of lawaia in milolii. I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments.

Miloli'i, is colloquially known as the "last Hawaiian fishing village." Miloli'i earns this title for having a longstanding reputation as a place where old traditions, especially those around fishing, are very present in the lives of its people. Miloli'i is the "last" of its kind, its people live simple lives with little in the way of material wealth and modern amenities, and so is a place reminiscent of the lifestyle of past generations. Where other fishing villages have dissolved by the forces of capitalist modernity, Miloli'i persists.

Miloli'i's ancient origins are recalled through stories, legends, genealogies, histories, songs, chants, as well as tangible archaeological remains. The demographics of Miloli'i today is much the same as it has always been. Fishing remains the dominant occupation, and most, if not all, residents are Native Hawaiian. The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua.

Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did. CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package.

Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods. We have held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.

Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.

Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).

Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners. A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.

Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data. Miloli'i's CBSFA Marine Management will retain an in-residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package. I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone. I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua. In Miloli'i, fishing is much more than an occupation, it is a way of life and an integral part of the community's identity. Not only is Miloli'i's fishing traditions important to the people of Miloli'i.

Miloli'i is beloved by Native Hawaiians everywhere who appreciate the sacrifice and persistence of the people of Miloli'i in upholding Native Hawaiian fishing practices. Miloli'i is incredibly respected in the broader Native Hawaiian community as a *cultural kīpuka* or cultural enclave because they retained traditional knowledge when many other communities lost their traditional knowledge. For this reason, Native Hawaiians everywhere admire Miloli'i for what they represent broadly to the resilience of the Hawaiian culture.

Miloli'i people are mauliauhonua, well established and descendants of old chiefs of Kapalilua. I support this subsistence fishing community in their kuleana to mālama 'āina and feed people now and into the future. This rules package reflects the sound rationale of their traditional fishing practices and expresses their intimate relationship they have with their 'āina.

with that I submit this oral testimony

Ka'imi N. Kaupiko

Tain Kariko

kkaupiko@gmail.com

My name is Cyrus Pohaku Luaiki Kema Curimao Kaupu.
I am 12 years old and born and raised in Miloli'i.
I am a lineal descendant of Hoopuloa, Miloli'i, Omoka'a and so much more.
I attend Kua o Ka La Hipu'u Charter School here in Miloli'i.

I am before you today to testify my support for the Miloli'i CBSFA.

My papa Levi Kaupu and mama Viola Grace Kaupu are 'ōpelu fishers of Miloli'i and so is my mom.

I go holoholo with my papa, my mom and Uncle Will and learn the ways of 'ōpelu fishing from them. From scraping pumpkin and kalo, to going to the ko'a and identifying the landmarks and to knocking on the side of the boat to let the kupuna know we are here before we enter with the mea'ai. The best part is when we pull up our catch and the first thing that either my papa or mom says is, here, handing me 2 of the biggest 'opelu to honi and give back to Kanaloa with a mahalo!

As a haumana of Kua O Ka La in Miloli'i, I do my part to kilo, collect eDNA, monitoring our kai and learning different methods of science surveying in my classroom, the Puaka'i'a Miloli'i area. I support the fishing lifestyle my family and I live. And I support the work that my mom, my Uncle's, my Aunties, and the Kupuna seen and unseen of Miloli'i is doing and has done for the rules and the Miloli'i community.

Today I send a kahea of kapu loa or no take of pakuikui in the entire Miloli'i CBSFA to be placed until an agreed upon time to lift that kapu. I also send a kahea to keep the original zoning for the pakuikui rest area, from Makahiki Point in Pāpā to Kapulau in Honomalino. My commitment is to assist in this recovery of their abundance.

Being that the Miloli'i CBSFA was placed 4 years before my birth and as a next generation lawai'a and water man, I hope to continue catching and eating these 'ono i'a well into my adulthood. A time where I can continue to eat the stories of our kupuna lawai'a.

Mahalo for allowing me the time and space to share. Aloha!

From: DLNR.AR.DLNR.Aquatics

Sent: <u>Thursday, May 5,</u> 2022 12:39 PM

To:

Cc:

Subject: FW: [EXTERNAL] Miloli'i CBSFA Testimony

From: Laila Kaupu

Sent: Thursday, May 5, 2022 11:28 AM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] Miloli'i CBSFA Testimony

Aloha Miloli'i ka aina o Kapalilua He puna wai o ka noeau o na opio o Kaumuali'i Eo mai e Na Kupuna Eo mai e na 'aumakua, Eo mai e ke 'akua. E pa mai ana ka makani aloha ua lo'ohia i ka mana o keia aina

> Puana keia mele no Kapalilua Ka aina kaulana no na lawai'a E ku ha'aheo a mau loa

I am the great-granddaughter of Nancy & John Apo, the granddaughter of Eleanor & Waha Grace, the daughter of Viola & Levi Kaupu.

My name is Leillynne Laila Sharleen LeiNoa Apo Grace Kaupu. I am born of Omoka'a, raised in Miloli'i and now live in the Milolii-Hoopuloa Housing Lots, specifically designated for the relocated families of the 1926 Hoʻopuloa lava flow. I am a lineal descendent of these ili 'āina in the moku of Kapalilua. I come from a long line of lawai'a, a Konohiki Apprentice under the keen guidance of Uncle Mac Poepoe and my Kupuna seen and unseen. Today I am an Outreach Kākoʻo for Kalanihale and an apprentice through the Mohala Na Konohiki program based out of Miloli'i.

Today I submit my testimony to DAR & DLNR for my Kupuna, for my 'āina, and for my keiki Cyrus Pohaku Luaiki Kema Curimao Kaupu in support for the Miloli'i Community-based Subsistence Fishing Area Management Plan but with comments, recommendations and a few moolelo to tell...

Miloli'i- 2 stories whisper no longer. Here today I will mention one land and one of sea.

- -Story of land talks of how this little village was known for weaving, twisting and creating the finest of sennit rope made of 'olonā and Milo for lawai'a, ka lae wa'a, hale builders and so much more, Kana!
- -Story of sea talks of how the Awa is the gathering place of the swirling nutrient rich Kona & Ka'u currents. The swirling currents filled with LIFE! Kanaloa!

This is Miloli'i.

The only way for the State to learn this and understand it fully, is through the lens of the communities and the Hawaiian value, of aloha 'āina mālama 'āina, which emphasizes That

generational inheritance of stewardship to the 'āina but not just the care for land, sea and all the in-betweens, but the care for ('āina) that in which feeds. It's that pilina, that environmental relationship and connection, that is invisibly woven into all of us, whereby if you care for the land, the land will care for you. CBSFAs represent a state recognized avenue for local community groups to do exactly that, mālama 'āina. CBSFAs represent a more bottom-up approach to fisheries management that is place-based in nature and community-driven, as well as an avenue for the DLNR to fulfill its obligation to protect traditional and customary practices as a matter of law, the public trust, and ceded lands trust.

Miloli'i CBSFA was designated in 2005 but without a management plan, in 2019, Kalanihale represented our subsistence fishing village, making it known that we were ready with our rules package. Setting the tone of our protection standards and rules package aligning with and reflecting the protective standards of neighboring conservation lands, managed by both state agencies and non-government organizations.

Our traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.

Grounded in a common goal to provide protection for 'āina and natural resources, the Miloli'i CBSFA Strategic Hui cultivates respectful and trusting relationships with agencies, partners, and communities that reflects our traditional values of mālama 'āina.

Our message of traditional stewardship and commitment to incorporate modern methods are consistent in our narrative, our proposed CBSFA rules package and our practices. It further demonstrates our preparedness to co-manage our CBSFA with agencies and partners.

- a. A CBSFA Marine Management organizational structure will be established to maintain our community's collaborative relationships with agencies and partners working together trusting each other and the process of which we are now stepping into.
- a. Mohala Nā Konohiki Miloli'i will represent our place-based knowledge and narrative, continuing traditional methods of area monitoring and surveying and incorporating modern methods and data.
- a. Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki Miloli'i.

Born and raised in a time where the - never ask why, just watch and learn and the pa'a ka waha hana ka lima was and still is one of the many values of life. I still live in these times even though generations have passed on. It's the Hawaiian traditions, cultural practices, Hawaiian values, codes of conduct, and knowing what you are going to give back before even taking. This is also my kūleana as a mākua, to feed 'ike and mo'olelo of people 'ohana and place, to feed values and best practices, to be that 'āina for my son, Cyrus Pohaku Luaiki Kema Curimao Kaupu. But eh in order for me to continue feeding, I too must be fed.

With all this being said, I support the originally intended Pakuikui Rest Area from Makahiki Point in Pāpā to Kapulau Point in Honomalino. With a kahea to the masses, of placing a kapu loa (not take) of Pakuikui within the entire CBSFA to be placed until an agreed upon time to lift the kapu. After a period of 5 years, kapu loa is to remain in place for the Pākuʻikuʻi Rest Area and a bag limit of 5 per person per day throughout the rest of the CBSFA. As a Mohala Na Konohiki apprentice, this is my commitment. We mālama our 'āina and feed our people.

Mahalo for allowing me to provide this testimony.

Mahalo, Leillynne "Laila" Kaupu

TESTIMONY OF SUPPORT

to adopt the rules package for the Miloli'i Community-Based Subsistence Fishing Area.

Leivallyn Kaupu P.O. Box 26 Hōnaunau, HI. 96726 (808) 315-6451 lkaupu@gmail.com

Welina mai kākou! 'O wau 'o Leivallyn Kalaukamahele Anna-Malia Kainoa Grace
Kaupu. 'O Kapalilua ka 'āina hānau, he moku. Kilakila Mauna Loa, kuahiwi nani o Hawai'i.
Kai ma 'oki'oki ku'u kai. 'O kēhau ka makani i pūliki 'ai ko kākou 'āina hānau.

Aloha everyone, I am Leivallyn Kaupu and I am a descendant of Kapalilua. Mahalo for granting me this opportunity to testify in SUPPORT of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with recommendations.

My 'ohana and I are generational stewards of Miloli'i, specifically Omoka'a, Ho'ōpūloa, and Alika-Pāpā. Our kūpuna and 'ohana have always been well established in this area of Miloli'i, Ho'ōpūloa, and throughout Kapalilua. I personally have seen social and economic changes throughout my homeland and have experienced technological advancement as well as a huge increase in development and daily tourist visitation that has impacted not only our lifestyle and way of living but most importantly, our natural resources that sustain us. Today, we continue to 'auamo our kuleana to mālama 'āina, caring for the marine resources of this place. We continue to feed and maintain the ko'a, specifically the 'ōpelu ko'a, of this coastline in the same way our kūpuna have done for generations.

We were granted CBSFA designation in 2005, and in 2019, Kalanihale represented our subsistence fishing village, making it known that we were ready to create a rules package.

TESTIMONY OF SUPPORT

to adopt *the rules package* for the *Miloli'i Community-Based Subsistence Fishing Area*.

Today, I am here providing testimony in support of the rules package.

Miloli'i CBSFA Strategic & Planning Hui, which I have been a part of since the very beginning, held extensive outreach, public scoping, family/individual interviews, and peer review with various communities, partners, and colleagues from fishery networks to share our narrative, marine management plan, and proposed rules. Our traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.

While requesting approval to hold this public hearing, the rules package proposed by our community was modified. Therefore, I provide recommendations on (2) specifics of the rules package regarding those changes.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- Miloli'i appeals for kapu loa (no-take) of pāku'iku'i throughout the CBSFA to be established until an agreed-upon sunset date. This highest protection from kānaka behavior is our commitment to assisting the recovery of their abundance.

On behalf of my 'ohana and I, mahalo again for allowing us this time and space to share our testimony. Again, I testify in SUPPORT of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with recommendations.

Eia mākou nā kauā o ke kai, no ke kūpalipele o Kapalilua, no ke au hoʻowiliwili o ke Awa. Eia mākou nā kauā o ke kai, no ka līhau o Kehau, No ka 'aha pa'a o ka Milo, Eia mākou nā kauā o ke kai, Pīko'u mai ka 'āina a ke kai, I molomolo mai kahua 'akamai. Aloha me ka pono o ke kai ē.

Aloha

My name is Levi Kaupu. I wasn't born here but my mom and dad lived here. I lived with my grandmother in Laupahoehoe.

At 9 years old, fishing with my Dad on his canoe, I caught my first ahi, over 100lbs. You can say there was a lot of fish then.

Then at 14 years old, I moved here and have been living here with my ohana and been fishing since.

I am in support of the Miloli'i Community-Based Subsistence Fishing Area because these are our ohanas who are helping our people and the resources to make our community thrive again.

People need to malama our ocean resources and our 'āina. If people going get greedy and only take, what we as a community get to look forward too - Nothing!

Help our Miloli'i CBSFA to achieve their goals so then they in return can helo uor Miloli'i Community with the needed resources.

Mahalo!

Aloha!

My name is Viola Kaupu, born and raised at Omoka'a with my ohanas who were all lawai'a. I now reside at Miloli'i-Ho'opuloa with my family.

My husband and I used to go fishing and have seen how plentiful all kinds of fishes were from the shoreline to the ahi and 'opelu ko'as. But now 'a'ale. Why? Because people only know how to take and no give back to the 'āina and to the kai.

Sure! There's fish but I can certainly say for a fact, it's not how it used to be. Why? Because our Kupuna and all the people worked together. Kēia lā, 'a'ale. No more! No more!

I support the CBSFA - Pakuikui Rest Area from Makahiki point to Kapulau point because we need to replenish these species and others within these areas. Kapu loa throughout the CBSFA.

So, I humbly ask that Miloli'i CBSFA Rules Package be accepted because its the people of the community who knows whats happening and who have seen the changes throughout the years and not outsiders telling us what is acceptable for our community.

This is a quote from my Dad who we called, "Old Man of the Sea." My kupuna who no longer is with us physically, but here spiritually. "You know, if we're not going to show our talent to the kids what we learned from our kupuna, they're not going to learn nothing!"

Kala mai! Make this happen for our community.

Mahalo!



April 18, 2022

Division of Aquatic Resources 1151 Punchbowl Street, Room 330 Honolulu, HI 96813-3088 DLNR.Aquatics@hawaii.gov

Dear Mr. Neilson (DAR Administrator),

I first visited and worked with the Miloli'l community back in 2007 with the Community Conservation Network (CCN) and the Managing Better Together (MBT) Network. I have seen the Miloli'i community come together around protecting the natural and cultural resources of south Kona.

They have diligently worked through their internal processes within their community and have collaboratively engaged with DLNR over the years. The Miloli'l community is a cultural kīpuka as they have always generously shared their fishing knowledge with other communities across Hawai'i and the wider Pacific. In fact, one of the revered kupuna, Uncle Walter Paulo, was a master fisher for the UN's FAO fisheries program and taught lots of areas in the Pacific how to fish sustainably. There is tremendous knowledge in communities like Miloli'l and they truly exemplify their moniker as "The Last Hawaiian Fishing Village." The Community-Based Subsistence Fishing Area designation was designed to protect places like Miloli'i and as such, I fully support the rules package for their CBSFA.

The people of Miloli'i are generational stewards of their place and are lineal descendants that can trace their genealogy to pre-western contact communities that were established throughout the area of Kapalilua. The knowledge of place, their traditional practices on how to care for place must be protected. I believe their rules package reflects these traditional practices and knowledge on sustainably managing their coral reef fisheries—a truly complex system. The customary kapu management system is the same tradition they use to ensure sustainability today. Their proposed zoning boundaries are rooted in the same landmarks used by their kūpuna. Miloli`i has held extensive outreach, public scoping, and peer review with various communities statewide. Miloli`i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands. They are grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of malama 'aina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Hoʻokena (Hawaiʻi). Their rules package is well-crafted, thought through and very thorough. Some highlights of their forethought and management planning inlcude:



- Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and cogovern the CBSFA with agencies and partners.
- A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
- Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
- Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- 1. I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

Miloli'i is a cultural kīpuka in South Kona and its' people are mauliauhonua, well established and descendants of old chiefs of Kapalilua. I support this subsistence fishing community in their kuleana to mālama 'āina and feed people now and into the future. This rules package reflects the sound rationale of their traditional fishing practices and expresses their intimate relationship they have with their 'āina. Moreover, the entire state will learn tremendous lessons from this CBSFA and will contribute significantly to the state's 30x30 Holomua initiative.

Thank you for allowing me this opportunity to provide this written testimony in full support of the Miloli'i CBSFA.

Sincerely,

Manuel Mejia

Regional Program Director-Hawai'i Coral Reef Alliance (coral.org)

Email: mmejia@coral.org

Manuel Mejía

Aloha, my name is Maki Morinoue and I am a 4th generation Japanese American from Holualoa Ahupua'a.

I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA). Today, I am here providing testimony in support of the rules package.

Miloli'i's proposed rules package being modified is not the best that DLNR can do to really ensure proper protection. I strongly support the recommendations of the Miloli'i community on (2) points of the rules package.

- o I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

My mother frequently visited Mr. Eugene Kaupiko who ran the store when she brought down tourists to this location in the 1970's. She recently shared many fond memories with me and was surprised at all the development along the mountain slopes.

Growing up fishing along our shorelines I am a first hand witness to the degradation and extractive behavior around profit over maintaining our ocean health. Our land to sea relationships from the 70's till today has left a scar on our reefs and is now showing signs in the direction of a food collapse. With the introduction of aquarium hunting from the late 1960's, the expansion of our 'tourist zone' for development has now invited over capacity within our bays while leaving locals unable to have land stakes in their own homeland with the simultaneous decrease in perpetuating cultural practices like we experience in Miloli'i and Ho'okena.

The extractive methodologies need to come to a dramatic halt in order to shift the narrative for our future generations. To see the herbivore and coral reefs at the state we experience today is extremely alarming. We do not have time to wait for rules and regulations to drag on for 30 years.

We must support the rules package that was thoughtfully prepared by the community of Miloli'i lineal descendants.

- Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.

- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.
- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).
- Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
 - A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

I want to mahalo the community of Miloli'i for putting forward a traditional cultural practice knowledge into the colonial rules and regulatory systems to ensure we follow cultural practices that revitalize rather than practices that have such a negative impact on our land to sea relationships.

I want to really congratulate DLNR, DAR for taking the time and effort to work with the community of Miloli'i in order to protect the Hawaiian cultural landscapes and practices as well as the Natural Resource. I hope to see more of these stricter regulations during a desperate call to prevent the collapse of our reef's ecosystem.

Thank you for this time and please ensure that the community of Miloli'i receives the type of supportive laws and regulations our Aina is asking for.

Mahalo for this opportunity,

Maki Morinoue 808-895-5152 Holualoa 96725 From: DLNR.AR.DLNR.Aquatics

Sent: <u>Thursday, April 2</u>1, 2022 7:35 AM

To:

Cc:

Subject: FW: [EXTERNAL] Testimony for Miloli'i CBSFA

Follow Up Flag: Follow up Flag Status: Flagged

From: Claire N

Sent: Wednesday, April 20, 2022 5:32 PM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>Subject: [EXTERNAL] Testimony for Miloli'i CBSFA

Aloha, my name is Leonard Naboa and I was born in Pahala, Hawaii and reside in Miloli'i, Hawaii. My grandmother, Felicia Sesson (Kaniho) was born and raised from Papa Bay the north side of Miloli'i. Growing up she schooled in Miloli'i. Since I've been born we have spent numerous off days from school & work in Miloli'i fishing, diving, & having family gatherings. The Aloha that Miloli'i has given to me growing up has given me the opportunity to purchase a home here in the village. I am able to continue on the family traditions that I have been blessed with here in Miloli'i.

Mahalo for this opportunity. I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments.

The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did.

CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.
- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.
- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).

- Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
- A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
- Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
- Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

Miloli'i is a cultural kīpuka in South Kona and its' people are mauliauhonua, well established and descendants of old chiefs of Kapalilua. I support this subsistence fishing community in their kuleana to mālama 'āina and feed people now and into the future. This rules package reflects the sound rationale of their traditional fishing practices and expresses their intimate relationship they have with their 'āina.

Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA, Aloha!

Leonard Naboa Jr Phone #808-217-6979 c_naboa@yahoo.com

Aloha, my name is	J. Klaipo	and I'm	from ISIANO O	L. HAWAII
Milotis Fishing	Village.			

Mahalo for this opportunity. I am here testifying in **SUPPORT** of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with recommendations.

My 'ohana are generational stewards of Miloli'i. Our kūpuna and 'ohana have always been well established in this area of Miloli'i, Ho'ōpūloa, and throughout Kapalilua. Today, we continue to 'auamo our kuleana to mālama 'āina, caring for the marine resources of this place. We continue to feed and maintain the ko'a of this coastline in the same way our kūpuna have done for generations.

We were granted CBSFA designation in 2005, and in 2019, Kalanihale represented our subsistence fishing village, making it known that we were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Our traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by our kūpuna are the same landmarks we use today, and some have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i CBSFA Strategic & Planning Hui held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share our narrative, marine management plan, and proposed rules.
- Our protection standards we state in our narrative and in our rules package align with and reflect the protective standards of neighboring conservation lands, managed by both state agencies and non-government organizations.
- Grounded in a common goal to provide protection for 'āina and natural resources, the Miloli'i CBSFA Strategic Hui cultivates respectful and trusting relationships with agencies, partners, and communities that reflects our traditional values of mālama 'āina.

- Our message of traditional stewardship and commitment to incorporate modern methods are consistent in our narrative, our proposed CBSFA rules package and our practices. It further demonstrates our preparedness to co-manage our CBSFA with agencies and partners.
 - A CBSFA Marine Management organizational structure will be established to maintain our community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent our place-based knowledge and narrative, continuing traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki Miloli'i.

While requesting approval to hold this public hearing, the rules package proposed by our community was modified. Therefore, I provide recommendations on (2) specifics of the rules package regarding those changes.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- o Miloli'i appeals for kapu loa (no take) of pāku'iku'i throughout the CBSFA to be established until an agreed upon sunset date. This highest protection from kānaka behavior is our commitment to assisting the recovery of their abundance.

Miloli'i is my 'ohana home, our piko, and we are mauliauhonua – of this place. We mālama our 'āina and feed our people.

Mahaja for allowing mento provide this testimony.

4 1210 - 22

Mayin Knaylapo R

'Ano'ai,

'O wan no 'o U'ilani and I submit this written testimony in strong support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with recommendations.

Born to Naomi Kauhiwai Kaupiko Naipo, the youngest daughter of Eugene Keaweiki and Sarah Kapela Kaupiko, I am a lineal descendant of Miloli'i, Kapalilua. My 'ohana Kaupiko, Pohina, and Kaliuna has always populated Kapalilua. From 'Ala'ē, Haukalua, Ka'ohe, down into Wai'ōhinu, Ka'ū but most notably Pāpā, Ho'ōpūloa, Miloli'i, and Kapu'a. Our 'ohana of Miloli'i are mauliauhonua – of this place and are generational stewards of Kapalilua. We continue to 'auamo our kuleana to mālama 'āina, caring for the marine resources of this place, feeding and maintaining the ko'a of this coastline just as our kūpuna have done for generations.

Support with Recommendations

In 2005, Miloli'i was granted its' CBSFA designation, and today along with my Miloli'i Community, I reaffirm my support of the current rules package with recommendations.

While requesting approval to hold a public hearing, our proposed rules package pertaining to the allowable daily take of pāku'iku'i was modified. The restrictive bag limit of 1 per person per day was the modification, unacceptable to the Miloli'i Community. To consider anything less than 5, as originally proposed would be insufficient for a lawai'a who customarily holoholo to feed 2 to 4 households. It would be inefficient for a lawai'a to modify his customary practices to go out daily to feed the 'ono of kūpuna wanting this most prized 'ai. This dismal scenario became the most difficult decision for the lawai'a of Miloli'i to make – an appeal for kapu loa ka pāku'iku'i. "Shut it down" was the recommendation announced by one of the uncles and those words silenced the meeting. Only the surging tide could be heard and one by one, heads of the lawai'a nodded in silent agreement. For the Miloli'i CBSFA Strategic Hui, we looked on in disbelief. This was the ultimate sacrifice. In the two weeks that followed, we revisited the lawai'a to reaffirm their decision. We also conferred with other Miloli'i lawai'a who were not at the community meeting. They voiced strong opposition to the kapu loa, "Don't do it, let's figure out another number. Don't do it, they not going open 'em back up!" After consulting with DAR's legal fellow and given an example in which written in the rules package, a moratorium was put in place with a sunset date for 'opihi in Hā'ena, we felt confident that we could make the recommendation for the kapu loa with a sunset date. We received permission from our community to proceed with the following recommendations:

- Miloli'i appeals for kapu loa (no take) of pāku'iku'i throughout the CBSFA to be established with a sunset date of 5 years. This highest protection from kānaka harvesting is our commitment and sacrifice to assisting the recovery of their abundance.
- Miloli'i lawai'a also strongly voiced that the cultural practices by Mohala Nā Konohiki apprentices to determine spawning cycle needs to continue throughout the kapu period. With regular in-water observations, limited but timely dissections to evaluate for spawning must still be conducted. Cleaning a catch, and taking note when spawning is about to occur informs lawai'a when not to harvest. Lawai'a retain this seasonal trend over time, years, and generations. This makes us mauliauhonua, well versed in the cyclical occurrences throughout our environment, over many generations. It is vital that lawai'a of Miloli'i who call for this kapu loa, (and as co-managers of the CBSFA), continue this cultural practice. This cultural practice perpetuates traditional knowledge, caring for and protecting the resources, and maintaining cultural and spiritual connections to our 'āina and kai.

Therefore, we request permit approval by DAR, allowing the cultural harvest practice, limited and timely to the spawning evaluation period of pāku'iku'i. The outcome would be to understand the life history, identify the spawning season and inform adaptive management recommendations for the pāku'iku'i.

- The Pāku'iku'i Rest Area is to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- When the kapu for the pāku'iku'i species is lifted, the bag limit is to be set at 5 per person per day throughout the CBSFA with the exception of the Pāku'iku'i Rest Area. Kapu on the pāku'iku'i in the Pāku'iku'i Rest Area is to be in effect. This rest area will be a focused study area of the pāku'iku'i during and after the kapu loa period.

And as we look forward to rules adoption, we further solidify our commitment to our role of comanagers by:

1. Establishing a CBSFA Marine Management organizational structure to maintain our community's collaborative relationships with agencies and research partners, manage the deliverables to the objectives outlined in the Marine Management Plan, and build capacity within the community to co-manage the CBSFA.

2. Mohala Nā Konohiki Miloli'i will represent our community's place-based knowledge and narrative, continuing traditional methods of area monitoring and surveying and incorporating modern methods and data collection.

As we reaffirm our traditional and customary native Hawaiian practices as part of our culture and subsistence way of life, we make room to collaborate with contemporary science methods and disciplines.

Not Simple but Effective

During the online public hearing held for the rules adoption, a testimony was given with comments noting hesitation to support and recommending rules be made simple. For 'ohana of Miloli'i, generational stewards of the 18.6 mile coastline of Kapalilua, these rules are not measured for its' simplicity to abide by or enforce, but recommended for its' effectiveness to provide protection for our resources and to curb the issues – that being of improper code of conduct negatively impacting our marine resources. Mai maka'u i ka hana, maka'u i ka moloā. Let us not be afraid of the hard work, be afraid of our laziness and negligence. Our kūpuna lived by this principle and were hardworking, all without advance technologies such as motorized vessels and fancy fishing gear. It is in the hard work of our traditional practices, ma ka hana ka 'ike, that knowledge resides, our pilina and lessons are fostered. The consequences are now apparent in our depleted marine resources due to the lack of proper code of conduct to care for our resources. The lessons that we must now share out by codifying our traditional practices are reflected in the rules package, promoting lawai'a pono.

Lilo akula ka nui a koe ka unahi

I assert that Aquarium Fishers has made a significant negative impact to our waters and I provide the following comment.

The definition and intent of community-based subsistence fishing area (CBSFA) as define in HRS §188-22.6, the traditional fishing practices and the cultural subsistence lifestyle of the people of Miloli'i and greater area of Kapalilua, depicts a concise narrative of traditional stewardship of our marine resources. Aquarium fishers do not have a role in this narrative. I have said it before, "in their taking of herbivores, they remove a critical function from our [marine ecosystem] waters without replacing it, nor do they [aquarium fishers] feed our people". The Sustainable Herbivore Management Plan speaks to this as well as the project components "Pono Practices" and "Protection and Restoration" of the Holomua 30x30 Initiative.

In statewide scoping for our rules, an aquarium fisher stated his employment of Hawaiians was his contribution toward the benefit of Hawaiians and expressed that his harvesting did not include any kaukau fish [we presumed he actually meant fish that would be consumed] to include the puakenikeni [we presumed he was speaking of pāku'iku'i instead]. Hiring a few Hawaiians to harvest aquarium fish for commercial gain does not distract from the unjust practice of aquarium fishing and the excessive negative impact it has on our coral reefs and the marine resources. Commercial aquarium fishing is not a cultural or a subsistence practice. Herbivores (even those that are not consumed by kānaka), have a critical role in our marine ecosystems and marine food chain. We [Kalanihale] provided responses to questions and prompted comments from aquarium fishers and of which have been thoroughly documented in our Summary of Outreach Administrative Record¹ and Frequently Asked Questions both on our website² and Administrative Record³.

Miloli'i is our home, our piko, and we are mauliauhonua. We mālama our 'āina and from this 'āina, we feed our people.

Mahalo for accepting this testimony, Aloha!

U`ilani Naipo

Lā Kūkolu o Ikiiki MH 2022

¹ Kalanihale, 2022, Outreach Summary, *Miloli'i CBSFA Administrative Record*. https://bit.ly/3KN8C7F

² Kalanihale, Wahi A Nā Kūpuna (faq), 2022. https://kalanihale.org/wahi-a-na-kupuna

³ Kalanihale, Frequently Asked Questions, 2. Outcome Materials (2015-2021), *Miloli'i CBSFA Administrative Record*, 2022.

Aloha, my name is Lei aloha Naki and I'm from Molokai, Waialua

I Strongly Support CBSFA For the life of

our people, for the life and righteourness

of the land and Ocean and the way we conduct

ourselves as "good stewards"

Mahalo for this opportunity. I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments.

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Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA, Aloha!

G. Lei Orlaha Waki

Caupikas Ohana Horse. Milolisi

Miloli'i, Kapalilua, Moku O Keawe

808-937-1319.

From: DLNR.AR.DLNR.Aquatics

Sent: Wednesday, April 20, 2022 1:06 PM

To:

Cc:

Subject: FW: [EXTERNAL] Written Testimony - Support of Miloli'i Community-Based Subsistence Fishing Area

Follow Up Flag: Flag for follow up

Flag Status: Flagged

From: pua paglinawan

Sent: Wednesday, April 20, 2022 7:37 AM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] Written Testimony - Support of Miloli'i Community-Based Subsistence Fishing Area

Aloha, my name is Robin Puanani Alexander Paglinawan and I was born and raised in Waipahu on the island of Oʻahu, and call Puna, Hawaiʻi my home where my ʻohana lives in Mountain View. We are a fishing ʻohana on the shores of Hilo and Puna, and enjoy the blessings from other places when visiting. Our relationship to our ʻāina is reciprocal and this is what we teach our ʻohana. I am a witness to the steady depletion of resources of my birth island and know that early prevention and management is one key to ensure food resources remain in perpetuity to sustain our ʻohana.

My relationship with Miloli'i lives in many ways. Attending a church service to honor Princess Pauahi were my first steps walking around the shoreline of Miloli'i, and to see firsthand the 'āina to the kai, to be welcomed by kama'āina has no comparison to videos and pictures. The mana channels through you and from this first visit to Miloli'i, it has held a special place within my heart. Since my first visit, I have shared time with Miloli'i with my most memorable experience of camping, where our 'ohana quickly made friends with the kama'āina of the place as we exchanged food, stories, and time spent every day. Our 'ohana learned the mo'olelo of the place, visited significant sites around the area and the 'ōpio and kupuna shared a few techniques to gather resources from the ocean. Such a blessing for the experiences and I look forward to more. Currently, I have another type of pilina or relationship with this place, and I provide counseling guidance to the keiki through their school, Kua o ka Lā, Hipu'u. Through my work, I witness the lens which my students view the world and view their understanding of their kuleana - kuleana to self, 'ohana, 'ohana practices and their place of living. We must nurture, grow and respect this kuleana of our keiki and support this package for the Miloli'i Community-Based Subsistence Fishing Area (CBSFA). The welo 'ohana (family traditions and practices) and mo'olelo must live and can only live through the generations to follow, and through the protection and management of the resources of their place. Allow them to grow into the Konohiki this 'āina needs by passing the CBSFA.

Mahalo for this opportunity. I am here to testify in **support** of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments.

The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did.

CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.
- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.
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- o I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
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Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA. Me ke aloha nui, Pua Paglinawan From: DLNR.AR.DLNR.Aquatics

Sent: <u>Tuesday, April 19, 2022 1:34 PM</u>

To:

Cc:

Subject: FW: [EXTERNAL] Testimony in support of rules package for Miloli'i CBSFA

Follow Up Flag: Flag for follow up

Flag Status: Flagged

From: Pua'ala Pascua

Sent: Tuesday, April 19, 2022 1:31 PM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Cc: KUAHAWAII-Kevin kevin@kuahawaii.org; miloliicbsfa@gmail.com
Subject: [EXTERNAL] Testimony in support of rules package for Miloli'i CBSFA

Aloha, my name is Pua'ala Pascua. I currently reside in Kea'au, Hawai'i Island but my 'ohana come from He'eia, O'ahu and Okoe, South Kona, Hawai'i. I am the product of generations that were sustained by the abundant fisheries of Kona Hema. I am also a biodiversity scientist with formal training in natural resource management and marine science.

I am writing today to testify in **support** of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments.

The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did.

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The rules package under review represents the best available science - inclusive of both contemporary ecological assessments and approaches and Indigenous and local knowledge developed and refined over generations. It is my privilege to submit testimony in support of a package that meaningfully acknowledges and respects these multiple ways of knowing, managing, and caring for resources.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package:

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
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Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA.

Na'u me ke aloha nui, Pua'ala Pascua, MS Natural Resource and Environmental Management In Hawaiian society, our kuleana as kanaka is to respect, understand, and malama the aina. We are caretakers of this land and all the natural resources of which we belong to. In turn the aina nourishes us, it teaches us, we learn, and in time we will know.

Aloha kakou, my name is Mac Poepoe and I am honored for this privilege to provide testimony in strong support of Miloli'i's rules package. These rules prepared by the people of this place is an indication of a system suffering from over extraction by those with little or no concern for the resources in order for it to recover to a sustainable level. For the last three years I have developed a close relationship to this place and to the people who have been here for many generations. I have been involved with this community in conducting research to develop these rules which the community feels can improve the health of their resources and at the same time align with their needs to feed their families. Having firsthand knowledge and observation of the resources of this particular coastline, I can say from my personal experience as a lifelong lawai'a, there is strong evidence that suggest a management plan along with a rules package be developed to meet and sustain the needs of the people. Recognizing past failures and non-pono practices, we can start to implement this plan and learn as we move along. It allows for the people to have a voice in deciding what rules and best practices are aligned with the needs of the people of this village. As I have listened to some of the mana'o from personnel of DAR and policy makers I cannot help feeling frustrated when the narrative of managing our resources shifts to satisfying those who stand in opposition for whatever reasons. Most of the time without a plan to fill that void of which they are creating and are responsible for.

The Miloli'i fishing villagers lifestyle alone speaks volumes of a place suspended in time.. and ancestral ike guiding them to a new time. In this new time we are witnessing the descendants taking on this kuleana and applying the ancestral like that is in part the foundation of these rules.

The purpose of these rules is to ensure the people of this village that they will be able to continue to feed their families in perpetuity following in the footprints of their ancestors as they continue their traditional and customary practices to malama their resources.

Aloha, my name is Sophia Rahnke, I currently live in Mānoa Valley on the island of Oʻahu and am a graduate student in the Marine Biology program at the University of Hawaiʻi at Mānoa. I have spent many years (in both my undergraduate and graduate degrees) studying nearshore marine ecosystems in Hawaiʻi, specifically coral reef systems. Through my studies, I have learned the importance and utility of community-based natural resource management and am a strong supporter of community-based management in Hawaiʻi.

I am writing to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments.

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Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA, Aloha!

UNIVERSITY OF HAWAI'I AT MĀNOA

Hawai'i Institute of Marine Biology

Ku'ulei Rodgers Ph.D Hawai'i Institute of Marine Biology 46-007 Lilipuna Road Kāne'ohe, Hawai' 96744 20 April 2022

Hawai'i Board of Land and Natural Resources Notice #: 0001364991-02 For Proposed Adoption of Hawaii Administrative Rules Chapter 13-60, Milolii Community-Based Subsistence Fishing Area, Hawai'i

Re: The Board of Land and Natural Resources (BLNR) Public Hearings on the proposed adoption of a new chapter under the Hawaii Administrative Rules to establish the Miloli'i Community-Based Subsistence Fishing Area (CBSFA) to ensure long-term sustainable populations of fish and other marine species and to reaffirm and perpetuate fishing practices that were customarily and traditionally exercised for Native Hawaiian subsistence, culture, or religion along the southwest coast of Hawaii Island. to manage and protect fish stocks and to reaffirm traditional and customary native Hawaiian subsistence fishing practices along the northwest coast of Moloka'i.

I, Dr. Ku'ulei Rodgers, am submitting written testimony in support of Chapter 13-60 Miloli'i Community-Based Subsistence Fishing Area (CBSFA), Hawai'i. Born and raised in Hawai'i, I have been a marine biologist for the past 30 years at the UH HIMB Coral Reef Ecology Laboratory where I currently serve as Principal Investigator.

In collaboration with the Division of Aquatic Resources (DAR), the Coral Reef Ecology laboratory at the Hawai'i Institute of Marine Biology has conducted 740 transects over the six years since the Hā'ena Community-based Subsistence Fishing Area (CBSFA) inception in 2016, to determine the efficacy of the first State CBSFA. Surveys conducted prior to the opening of the CBSFA in 2013/14 were used as a baseline for comparison (Friedlander 2014). Surveys were conducted inside the CBSFA and outside the boundaries as well as within the Makua Pu'uhonua closed to fishing. This design and number of transects conducted, provide extremely robust statistical validity of the results.

After just the first two years, there was statistically significant higher abundance and biomass of fishes, increasing since the initial opening. In addition, select fishes within three families (Goatfishes, Jacks, and Parrotfishes) showed a significant increase inside the CBSFA boundaries as compared to outside the boundaries. Five species of food fishes were found to have a strong reserve effect. A larger portion of these species were reaching reproductive maturity after the CBSFA designation was in place.

A sudden drop in fishes occurred in 2019, the year following the massive freshwater flood event in 2018. We were able to separate the effects of the management regulation from the environmental impact by several means. We were surveying another north shore Kaua'i site, Pila'a, for recovery. This site showed similar patterns to the Hā'ena CBSFA from the freshwater flood event. There were statistically significant massive urchin declines, extensive coral bleaching, and significant reductions in fish abundance and biomass. Linking this to the flood and separating it from the management regime, shallow sites with higher freshwater impacts from lower salinity and higher sedimentation and nutrient input were affected while deeper sites

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showed no statistical change. At shallow Hā'ena sites, salinity sensitive urchin populations declined by 67% and fish communities by 42%. By separating the resource or food fishes from the non-resource fishes we can provide even further supporting evidence that the freshwater flood was the driving force in these declines rather than the management regulations. To add even further support of the efficacy of the CBSFA management regulations, the years following the sharp decline 2020 and 2021 showed increases, following the pattern of the early years.

Over the 5 years from 2016 through 2020 we evaluated the management goals and activities as stated in the Hawai'i Administrative Rules Chapter 13-60.8 pertaining to the efficacy of the CBSFA.

Our results show the objective to Preserve and protect nursery habitat for juvenile reef fishes has been met. Within the Makua Pu'uhonua, the fully protected juvenile fish habitat, both fish density and biomass have significantly increased overall. A significant recovery has occurred in fish density since the flood, however fish density has not as yet returned to 2017 levels. Small juvenile fishes <5 cm and medium sized fishes (5-15 cm) have statistically increased following the flood from 2018 to 2020.

The CBSFA objective to Increase the abundance of native fish species, limu kohu, he'e, urchins, lobsters, 'ōpihi and other shellfish was also assessed for native fishes and urchins within the purview of our study. Results determined the biomass and density of native fishes (endemic and indigenous) inside the CBSFA reserve showed statistically significant increases from 2014-2017 prior to the flood event, while no increases were found outside the reserve boundaries. Following the decline in all fish communities the year of the flood, endemic fish density inside the Makua Pu'uhonua showed a positive rebounding trend. The same was found for indigenous fish biomass outside the reserve and for indigenous fish density within the CBSFA and the Pu'uhonua. Urchins are slow to recover following the flood.

The objective CBSFA to Increase percent coral cover by reducing human impacts on coral reef resources was also investigated. Coral cover proportion has remained fairly stable following the 2014-2015 statewide bleaching event that reduced coral cover by 34% statewide. Coral bleaching following the flood event was significant but did not result in extensive mortality. Long-term monitoring sites at Limahuli, within the reserve, showed coral cover on the shallow reef flat has remained stable across the years while a continued decline at the 10 m site has occurred. Increased ocean temperatures and freshwater intrusion are the major drivers of coral mortality. Links to human impacts are more difficult to determine in the absence of direct human contact data.

Thus, overall the management strategies employed at the Hā'ena CBSFA are achieving their goals.

The community support and collaboration has been overwhelming. The Hā'ena community is dedicated to the management of their resources and in working with outside agencies and groups to strengthen their monitoring and outreach programs.

Although a much smaller proportion of the population presently fishes or consumes local fish products relative to ancient times, marine resources have steadily declined over time. Unlike fishing communities of the past, we are currently out of sync with many of the natural cycles.

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Hawai'i Institute of Marine Biology

The Miloli'i community relies on fishing for their survival and best understands the fisheries. If we are to maintain a viable fish population for all stakeholders, for future generations, regulations that allow adaptive community management will bring us a step closer to sustainability and system resilience.

The Western system that gradually replaced the traditional system is centralized and overly complicated. It can not address all the differences that are present in each community. It is now clear that some of the limitations and inefficiencies of the Western management system stem from the absence of the linkages found in the traditional system. Western managers are responsible for large areas and cannot be expected to have intimate contact with the resource in all regions except through data supplied by occasional surveys, catch statistics, environmental impact statements etc. Those using the resource are seldom given responsibility for stewardship and are often only concerned with exploiting the resource to their private advantage.

A CBSFA allows the Division of Aquatic Resources (DAR) to receive input from the community and be responsive to social and environmental change. A major strength of the traditional management system is the ability to be place-specific and sensitive to local issues. It utilizes the local knowledge passed down through generations. A major strength of DAR is its ability to adapt to changing social, political, and economic conditions, and to respond to local threats presented by pollutants, shoreline construction, invasive species, and nutrients. They also have the potential to adapt regulations to deal with the major advances in fishing technology such as high powered boats, GPS, sonar fish finders, power winches, inexpensive monofilament gill nets, and SCUBA. that have eliminated many of the controls that prevented overexploitation in ancient times. A CBSFA provides a collaboration of both these systems to better protect the marine resources for all involved.

Past studies have shown the effectiveness of community management elsewhere in the Pacific. The current Hā'ena CBSFA has followed a similar pattern of increased fisheries under collaborative local and State management regimes. I show my full support of the proposed Miloli'i CBSFA. Feel free to contact me with any questions or comments.

Kuulei Rodgere

Ku'ulei Rodgers Ph.D.: UH Hawai'i Institute of Marine Biology Research Faculty Principal Investigator of the Coral Reef Ecology Lab and Coral Reef Assessment and Monitoring www.coralreefecologylab.com

Aloha, my name is		and I'm from		
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Hy Pule Job Ho Hulding me to provide this testimony of support for Miloti'i CBSFA, A

Lynna Bob Do April 3

200-1540 Pc HALA AUR

Miloli'i, Kapalilua, Moku O Keawe

808,938,6544

aloha,

My name is stephanie Smythe & I like in the sub duision frere in Milelie

My late husband of I moved here July 2019. We both are advid fisherner.

I grow up in floreda were I fished the lakes, Streams of the Ocean.

J've always learned of Kept up with
The rules, Regulations size, Kinda fish
Fishing For & the area allowed to fish.
Where wer D've lived. (ocogon, wa & co)
Now living here I look to the locals
That have lived here for generations.
Why? They the have all of the
Knowledge for all here in Milalie.
They talk with me on what you can fish
for during that season, what size to keep,
what kind of fish, what area— either

They By Shore or Sea.

I look up to the Kapanas for their
advice.

I find that It is really important to get all I can & learn from the locals.

Cenerations have been passed down to today where we need to protect not only the waters but what lives in these waters. The coral, the coral fish, the wholes & some the fish that feed a spawn for all of us where Stricter rules a laws to protect Our future. I want to help now on the future for our natural linviorment rall of the habitats that lives here in our waters.

limits, Boundaries & quidilines need to be put in place. It's All of our Rigonsability to protect our water.

Water is precious à our resources Will Show, for our future generations

Stiphenie Smiffle 808-315.4116 88-1518 Euns Avz. Captain book, HI 9804 Miloli'i public hearing Testimony April 20, 2022

Aloha mai kākou,

'o wau nō 'o Kēhau Springer, no Kaimukī, Oʻahu mai au, noho wau ma Keaʻau, moku o Keawe. Mahalo nui loa for the opportunity, I am here to testify in full support of the rules package for Miloliʻi CBSFA with comments.

I work for a ocean conservation non-profit that has been working along side the 'ohana Miloli'i since 2011. Today I am here to provide testimony in support of the Miloli'i CBSFA under my own personal capacity and not for my organization.

I have the upmost respect and honor to know that the 'ohana Milol'i are generational aloha 'āina of this area of Kapalilua. Their genealogy traces them back to these areas way before western contact and I would also argue that they were one of the last remaining villages that were able to provide sustanance for the early voyages to and from Kahiki Nui and the south pacific. They were not only able survive in this Kapalilua region, they were able to thrive as a network of villages and also provision wa'a prior to these ocean voyages.

I'm been very fortunate to be able to dive and kilo alongside the 'ohana in Miloli'i for over a decade while conducting monitoring of their nearshore reefs, intertidal and coastal systems. The kupuna seen and unseen are present on every dive, the place names and leo are uplifted and resonate throughout this whole region while we are present in their space.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- o I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- o I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

I support this subsistence fishing community inn their kuleana to mālama 'āina to feed their people now and into the future. This rules package reflects the sound rationale of their traditional fishing practices and expresses their intimate relationship they have with their 'āina.

He leo ha'aha'a wale nō, mahalo

Aduna-Etramonistas

Shauna Kēhaunani Springer kehautom@gmail.com (808) 384-6363 From: DLNR.AR.DLNR.Aquatics

Sent: <u>Monday, April 18, 2022 7:14 AM</u>

To:

Cc:

Subject: FW: [EXTERNAL] Please Support Miloli'i CBSFA Rules

Follow Up Flag: Flag for follow up

Flag Status: Flagged

From: Joshua Stanbro

Sent: Sunday, April 17, 2022 10:53 AM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov> Subject: [EXTERNAL] Please Support Miloli'i CBSFA Rules

Aloha DLNR Leadership,

I was introduced to the Miloli'i community twenty years ago by Gil Kahele, to help with land preservation in the area. Although the original project we worked on to permanently purchase and protect the coastline never came to fruition, I have always felt blessed for my time seeing the passion and drive of the community to protect their culture and resources.

I am in strong support of the rules package for the Miloli'i Community-Based Subsistence Fishing Area brought forth by the community. In addition, I support the recommendations of the Miloli'i community two additional points: a) I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone; and, b) I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

It has taken years of hard work to arrive at this point. Please support the Miloli'i community in their effort to perpetuate centuries of natural resource management and responsibility into the future.

Mahalo nui for the opportunity to testify. Josh Stanbro Palolo Valley Division of Aquatic Resources

Department of Land and Natural Resources

1151 Punchbowl Street, Room 330

Honolulu, HI 96813

May 6, 2022

Re: Written Testimony for Proposal to Adopt Hawai'i Administrative Rules Chapter 13-60.XX, entitled "Miloli'i Community-Based Subsistence Fishing Area, Hawai'i"

My name is Olivia Staubus. I am writing in full support of the adoption of HAR Chapter 13-60.XX with the amendments proposed by the Miloli'i community.

I was born and raised in Oklahoma. I attended Oklahoma State University where I earned a Bachelor's degree in Natural Resource Ecology Management with a focus on Aquatic Ecology and Fisheries Management. During the final year of my degree I attended the University of Hawai'i at Mānoa so that I could supplement my education with courses surrounding ocean conservation and management. I am now a third year law student at the William S. Richardson School of Law at the University of Hawai'i at Mānoa. I have earned certificates in both Environmental Law and Native Hawaiian Rights.

I am grateful to have spent the last five years living on O'ahu. I am an avid scuba diver and free diver. My time in the ocean has allowed me to connect to the natural world and develop a deep respect and love for the intricacies of our earth's ecosystems. I write in support of the adoption of HAR Chapter 13-60.XX because I want to ensure the protection of those ecosystems, to preserve them for the use and enjoyment of all living creatures and all generations to come.

I stand in full support of the Miloli'i community, the people who know the ecosystem of the near shore fisheries personally. I believe that the people of the Miloli'i community are in the best position to advise on management practices, as they possess knowledge passed down from their ancestors. Traditional and Indigenous knowledge has often been neglected by western science, but we cannot continue down that path if we wish to effectively manage our ecosystems.

I urge you to adopt HAR Chapter 13-60.XX with the amendments proposed by the Miloli'i community. Thank you for your consideration.

Mahalo,

Olivia Staubus

Aloha

I am originally from Alaska, but have lived on the Big Island for almost 40 years. I have lived down at the bottom of Miloli'i for close to 6 years of the 40 years.

This place is rich in history and culture. While living here I have learned a lot about the people and the land. The people in Miloli'i are very passionate about keeping their home as it has been for years. They provide for their families and have for generations. They are always looking for ways to improve their community, and this is the greatest of ways.

I support the Miloli'i CBSFA that the 'ohana of Miloli'i has proposed. I support the communities decision to their kahea on the Pakuikui Rest Area, the Kapu loa until an agreed upon sunset date, and when that date sets to be able to open it up to their originally intended bag limit of 5.

I feel like the people of Miloli'i should be the ones to manage the fishery. They have knowledge of the ocean here more than anyone else, and they are all personally vested in this 'āina.

I am Carmen Sumida and I support the community of Miloli'i and their decision to malama the marine resources. Mahalo.

Aloha, my name is Stephanie L. Taetuga	and I'm from Milolii		
I strongly support the	Molini	CBSFA	
100 %			

Mahalo for this opportunity. I am here testifying in SUPPORT of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with recommendations.

My 'ohana are generational stewards of Miloli'i. Our kūpuna and 'ohana have always been well established in this area of Miloli'i, Ho'ōpūloa, and throughout Kapalilua. Today, we continue to 'auamo our kuleana to mālama 'āina, caring for the marine resources of this place. We continue to feed and maintain the ko'a of this coastline in the same way our kūpuna have done for generations.

We were granted CBSFA designation in 2005, and in 2019, Kalanihale represented our subsistence fishing village, making it known that we were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Our traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by our kūpuna are the same landmarks we use today, and some have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i CBSFA Strategic & Planning Hui held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share our narrative, marine management plan, and proposed rules.
- Our protection standards we state in our narrative and in our rules package align with and reflect the protective standards of neighboring conservation lands, managed by both state agencies and non-government organizations.
- Grounded in a common goal to provide protection for 'āina and natural resources, the Miloli'i CBSFA Strategic Hui cultivates respectful and trusting relationships with agencies, partners, and communities that reflects our traditional values of mālama 'āina.

- Our message of traditional stewardship and commitment to incorporate modern
 methods are consistent in our narrative, our proposed CBSFA rules package and our practices. It further demonstrates our preparedness to co-manage our CBSFA with agencies and partners.
 - A CBSFA Marine Management organizational structure will be established to maintain our community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent our place-based knowledge and narrative, continuing traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki Miloli'i.

While requesting approval to hold this public hearing, the rules package proposed by our community was modified. Therefore, I provide recommendations on (2) specifics of the rules package regarding those changes.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- Miloli'i appeals for kapu loa (no take) of pāku'iku'i throughout the CBSFA to be established until an agreed upon sunset date. This highest protection from kānaka behavior is our commitment to assisting the recovery of their abundance.

Miloli'i is my 'ohana home, our piko, and we are mauliauhonua – of this place. We mālama our 'āina and feed our people.

Mahalo for allowing me to provide this testimony.

89-1743 Milolin Kd.

Miloli'i, Kapalilua, Moku O Keawe

854-5779

86

From: DLNR.AR.DLNR.Aquatics

Sent: Wednesday, April 13, 2022 1:50 PM

To: Cc:

Subject: FW: Support of the rules package for Miloli'i CBSFA

From: Tlaloc Tokuda

Sent: Wednesday, April 13, 2022 9:40 AM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] Support of the rules package for Miloli'i CBSFA

Aloha all, I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments.

CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.
- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.

- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).
- Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
 - o A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
 - Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - o Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

Rules Package.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- o I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- o I support the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

Miloli'i is a cultural kīpuka in South Kona and its' people are mauliauhonua, well established and descendants of old chiefs of Kapalilua. I support this subsistence fishing community in their kuleana to mālama 'āina and feed people now and into the future. This rules package reflects the sound rationale of their traditional fishing practices and expresses their intimate relationship they have with their 'āina.

Mahalo for your consideration,

Tlaloc Tokuda

Kailua Kona HI 96740

Suzanne Case, Chairwoman

Board of Land and Natural Resources

Kalanimoku Building

1151 Punchbowl Street

Honolulu, HI 96813

Sent via email to: dlnr.aquatics@hawaii.gov

Dr. Mehana Blaich Vaughan

Associate Professor of Sustainable Watershed and Coastal Management

University of Hawai'i at Mānoa

Department of Natural Resources & Environmental Management,

College of Tropical Agriculture & Human Resources,

1910 East-West Road, Sherman 101

Honolulu, HI 96822

April 20, 2022

Subject: Miloli'i CBSFA designation and proposed rules

Dear Chairman Case and Members of the Hawaii Board of Land and Natural Resources,

Aloha mai kākou.

My name is Mehana Blaich Vaughan. I come from Halele'a, Kaua'i where our 'ohana work to care for and educate about our 'āina and kai and I am testifying today as a private individual. I am also a faculty member at the University of Hawai'i at Mānoa focusing on the study of collaborative resource management, and sustainable management of watersheds and coastal ecosystems. I am writing in support of the Miloli'i CBSFA rules package and management plan, and of the tireless efforts of Kalanihale and other Miloli'i community members to develop these rules to sustain and care for their near shore fishery.

Kūpuna of Miloli'i and the Kapalilua area have been critical to my own learning and work, and to the movement for community management of fisheries across Hawai'i over the last

twenty five years. In the early years of this century I was fortunate to travel to Miloli'i with keiki from our Waipā summer program, as well as to work for a decade with Miloli'i Kupuna like Anakala Walter Paulo and Anakala Eddie Ka'anana who taught us of ko'a. One of their first kuleana as keiki was to grate pala 'ai or pumpkin early in the morning before school, and cook it into palu for the ko'a, to feed the 'ōpelu. They taught us that fishing is far more than harvest, but actual cultivation and feeding of the ocean in specific places, so that they may in turn feed area 'ohana. These rules are proposed by the families responsible for caring for these ko'a for the entire community across generations. These kūpuna, with others of the Miloli'i community, helped to pioneer some of Hawai'i's earliest efforts to work to bring state regulations in line with indigenous ecological knowledge and practice through effort to ban use of chopchop or meat based baits at area ko'a. Miloli'i was one of Hawai'i's first designated CBSFA's, established in 2005, and area 'ohana's teachings are the foundation of the movement for lawai'a pono.

Collaborative and community led management are recommended means of governing many types of common pool resources across the world, from forests to grazing lands to near shore fisheries. These integrated management systems allow for adaptation of regulations and rules to local conditions, particularly in the face of climate change, and often enhance enforcement because local users agree upon rules, and then assist in promulgating and education about them. The Miloli'i management plan evidences many of the features shown world-wide to enhance robustness of management schemes and the health of ecosystems over time.

These rules represent a high level of specificity to place through the range of Pu'uhonua and protected areas identified, each of which has nuanced regulations according to place and habitat. The rules address detrimental effects of extractive gears such as scuba spearfishing and night diving, and protect important near shore habitats as spawning grounds. The size of pu'uhonua areas is large enough to provide meaningful protection and even likely spillover of fish.

These rules also reflect evolution of CBSFA rules packages across communities, whose impacts we are already seeing in the abundance of, not only the fishery, but our community's ongoign learning and care in Ha'ena. Ecological studies of the impacts of similar CBSFA rules in Hā'ena, Hawai'i show increases in biomass and abundance of many key species, despite damage to reefs from the 2018 floods, suggesting enhanced ecosystem health and resilience.

These rules and this rule making process reflect years of community input, engagement with diverse stakeholder groups and changes in the rule package to incorporate feedback. I especially support the proposed amendments including the Pāku'iku'i

rest area advanced by the lineal descendants of the 'ohana of Miloli'i. They have been exemplary in their education efforts, their teaching across generations which is evident in this package and this work. We at the University, faculty and students, continue to learn from and support Miloli'i and other Hawai'i communities that choose to engage the CBSFA process as a means of exercising their kuleana, responsibility and right to care for resources that sustain them. Their work represents the highest commitment to place, as well as deep generosity in sharing and teaching of others.

Please approve these rules along with the community's proposed amendments.

'Anakala Eddie once taught us the phrase, "Ka li'u o ka pa'akai." It speaks of the need use just the right amount of salt to preserve the fish until it is ready to eat. The Miloli'i community and these rules have been waiting long enough, and this is their time. Eo e na kupa o Miloli'i i na 'aina momona a'o Kapalilua.. e ola e na kupuna...

Thank you so much for your time and service to our Hawai'i nei.

Mehan Blaich Vaugh

Me ke aloha aloha 'āina,

Dr. Mehana Blaich Vaughan

Department of Natural Resources and Environmental Management,

UH Sea Grant College Program & Hui 'Āina Momona

Halele'a, Kaua'i community member

Phone: (808) 956-7530

mehana@hawaii.edu

From: DLNR.AR.DLNR.Aquatics

Sent: <u>Tuesday, April 19, 2022 8:56 AM</u>

To:

Cc:

Subject: FW: [EXTERNAL] In support of the rules package for the Miloli'i Community-Based Subsistence

Fishing Area

Follow Up Flag: Flag for follow up

Flag Status: Flagged

From: Wong-Ala, Jennifer

Sent: Tuesday, April 19, 2022 8:55 AM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] In support of the rules package for the Miloli'i Community-Based Subsistence Fishing Area

To whom it may concern,

Aloha, my name is Jennifer Wong-Ala and I'm from Waimanalo, O'ahu.

Mahalo for this opportunity. I am here to testify in support of the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with comments. The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did. CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, and informed DLNR they were ready to create a rules package. Today, I am here providing testimony in support of the rules package.

- Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.
- Miloli'i set forth compelling protection standards in their narrative and rules package which align well
 and reflect the conservation values and needs of neighboring conservation lands.
- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).
- Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
- A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.

- Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
- Miloli'i's CBSFA Marine Management will retain an in-residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on two points of the rules package.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- I support the pāku'iku'i species rule to reflect that of what the Miloli'i Community designates as they are the generational stewards of Kapalilua.

Miloli'i is a cultural kīpuka in South Kona and its' people are mauliauhonua, well established and descendants of old chiefs of Kapalilua. I support this subsistence fishing community in their kuleana to mālama 'āina and feed people now and into the future. This rules package reflects the sound rationale of their traditional fishing practices and expresses their intimate relationship they have with their 'āina.

Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA.

Sincerely, Jennifer Wong-Ala

__

Jennifer Wong-Ala (she/her/hers)
NSF Graduate Research Fellow
Ocean, Earth, and Atmospheric Sciences Ph.D. Student
Oregon State University

Email 1: wongalaj@oregonstate.edu
Email 2: jennwongala@gmail.com
www.jenniferwongala.weebly.com

Name pronunciation

Oregon State University in Corvallis, OR, is located within the traditional homelands of the Mary's River or Ampinefu Band of Kalapuya. Following the Willamette Valley Treaty of 1855 (Kalapuya etc. Treaty), the Kalapuya people were forcibly removed to reservations in Western Oregon. Today, living descendants of these people are a part of the Confederated Tribes of Grand Ronde Community of Oregon (https://www.grandronde.org) and the Confederated Tribes of the Siletz Indians (https://ctsi.nsn.us).

Aloha:

My name is Charles Young. I reside in Kealia in the region of Kapalilua South Kona Hawaii. I write in support of the proposed rules package and management plan for the Milolii Community Based Subsistence Fishing Area designated boundaries.

I was privileged to have fished alongside the fishermen from Milolii and to have learned from many of the fishermen and their families. My testimony is not centered on "what had" vs "what get". We all know the resources have diminished. I'm not focusing in on the premise that "western science" is at odds with "local knowledge" or that this is "culture" vs commercial". We all know that the resources have diminished and that a solution can't be defined in one word.

In 1998 the Hawaii State Legislature under the leaderships of Hawaii Island Rep. Dave Tarnas created Act 306 that established the West Hawaii Regional Fishery Management Area (WHRFMA) which extends from South Point to Upolu Point. Today Act 306 and the establishment of the WHRFMA along with its' supporting advisory group, the West Hawaii Fisheries Council still stands out as among the most progressive move toward community-based resource stewardship. Members from the Milolii community along with many other fishing communities from the region participated in the process that lead up to the final passage of Act 306. Over 1,000 people attended the public hearing in Kailua-Kona to show support for the measure. In North Kona at Kaupulehu, the Try Wait initiative is about ½ way through its' 10-year mandatory closure and the initial results are showing that the near shore fish populations are rebounding after years of overfishing and lack of sound management practices. My point is that Milolii's proposal builds upon a vision that the State itself adopted many years ago and that vision was to better manage the marine resources within the West Hawaii Regional Fisheries Management Area. The community of Milolii is stepping up and taking responsibility to better manage a significant portion of the southern region of the WHRFMA.

Why is the community of Milolii ideally suited for this work? The designated boundaries for the CBSFA are the traditional fishing boundaries for the village as explained to me and shown to me by the local fishermen when I was first introduced into the fishing community. All that the village needed was to be found within those boundaries. The families have fished this area for centuries, they know the grounds and their ancestors developed the management practices that has sustained the village into modern times. I believe they have never relinquished that Kuleana. I trust the Board takes into consideration the intrinsic connections to place that are inherent in the villagers and the challenges they face should those connections be lost.

Let me focus in on the word "subsistence" for a moment. In my opinion this is probably the most defining word in the title Community Based Subsistence Fishing Area. As one who has fished for the table all my life, subsistence means having enough to feed myself and my family. It means not taking more than I need so that there will be an abundance for future use. Within this context, the management plan aims to protect, manage and assure that the resources, particularly those resources that have been traditionally and customarily gathered are sustained. In this regard special consideration must be given to native Hawaiian gather rights as protected under the State Constitution. Some have expressed a concern that this sets up a basis for exclusion. However, if we all are to subsist, the resource must be managed to that level. Again, everyone agrees that the resources have diminished under the current management practices. While subsistence defines a usage, the term abundance should define the management goal. 'Aina Momona.

In summary, as members of the Board of Land and Natural Resources you have before you a decision that will further the resource management goals of the Milolii community, its neighboring communities, the 30x30 initiative and the West Hawaii Regional Fisheries Management Area to better manage our resources as well as further the goals of the Board of Land and Natural Resources as set forth in 1998 by the legislature through Act 306.

Mahalo

Charles Young

PO Box 505

Honaunau, Hi 96726.

PO Box 723 Waimānalo, HI 96795 godscountrywaimanalo@gmail.com



Hoʻoulu a me hoʻōla lāhui. Propagate and perpetuate the race

Division of Aquatic Resources (DAR) 1151 Punchbowl Street Room 330 Honolulu, HI 96813 DLNR.Aquatics@hawaii.gov

April 19, 2022

Re: STRONG SUPPORT for Establishing the Miloli'i Community-Based Subsistence Fishing Area (CBSFA)

Aloha kākou,

The Board of Directors (Board) of God's Country Waimānalo (GCW) has voted to STRONGLY SUPPORT the establishment of the Miloli'i Community-Based Subsistence Fishing Area (CBSFA). GCW's mission is ho'oulu a me ho'ōla lāhui, meaning to propagate and perpetuate the race. GCW fulfills its mission through community programming in Waimānalo and throughout the state. The proposed CBSFA in Miloli'i will allow for generational propagation and perpetuation of the lāhui! Because of this truth, it was a matter of course for our Board at GCW to send our STRONG SUPPORT to Miloli'i. This correspondence will address a memorandum from the Executive Office of the President dated November 15, 2021, CBSFA laws, and how these apply in Miloli'i's effort to create their own CBSFA.

Memorandum. The memo, which comes from the Executive Office of the President, addresses Indigenous traditional ecological knowledge (ITEK) as it relates to federal decision making processes. Specifically, the memo states that ITEK is "one of the many important bodies of knowledge that contributes to the scientific, technical, social, and economic advancements of the United States and to our collective understanding of the natural world." This is especially significant because of the traditional fishing practices in Miloli'i.

CBSFA Laws. CBSFA laws are the only laws in the state that support the development of subsistence fishing rules "for the purpose of reaffirming and protecting fishing practices customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion" (HRS 188-22.6). Specific to Miloli'i, HRS 188-22.7 directs the adoption of "management strategies and other rules...that ensure long-term sustainable populations of fish and other marine species."

Re: STRONG SUPPORT for Establishing the Miloli'i Community-Based Subsistence Fishing Area (CBSFA)

Page 2

Milolii. In Miloli'i, the fishermen and women utilize ancient fishing practices; practices unique to this place. These are the types of practices addressed in the ITEK memo as well as those addressed in HRS 188-22.6. Because those traditional practices are sacred to the place, this correspondence will not address specifics of the practice. Having previously witnessed those practices, we can attest to the uniqueness of the practices carried on in Miloli'i. Furthermore, we believe that the establishment of further proposed rules BY AND FROM THE MILOLI'I COMMUNITY will result in a sustained healthy condition of the area and promote replenishable fish stock.

This letter discussed the White House memo addressing ITEK, CBSFA Laws, and how these relate to the fishing practices that take place in Miloli'i. As stated, GCW's mission is ho'oulu a me ho'ōla lāhui. Our Board believes that the establishment of CBSFA in Miloli'i would contribute to both propagating and perpetuating the race in Miloli'i, moreover the entire lāhui because of the Indigenous knowledge that is being perpetuated there. As a result, GCW offers its STRONG SUPPORT for this movement.

If you have any questions or concerns, please do not hesitate to contact us via any of the contact information available in the letterhead above.

Mahalo.

H. Ilima Ho-Lastimosa, MSW

President

Bob K. Lastimosa

Vice President

Kenneth K. L. Ho, Jr., EdD

Secretary

From: DLNR.AR.DLNR.Aquatics

Sent: <u>Tuesday, April 19, 2022 2:22 PM</u>

To:

Cc:

Subject: FW: Harold KL Castle Foundation testimony in strong support of the Milolii CBSFA

Follow Up Flag: Flag for follow up

Flag Status: Flagged

From: Eric Co

Sent: Tuesday, April 19, 2022 1:59 PM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] Harold KL Castle Foundation testimony in strong support of the Milolii CBSFA

Aloha mai to whom this concerns,

The Harold KL Castle Foundation writes in strong support of the Miloli'i Community Based Subsistence Fishing Area as presented with comments. We support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua. And, we support the pāku'iku'i species rule to reflect that of what the Miloli'i Community designates as they are the generational stewards of Kapalilua.

We further submit that these regulations are not only to be supported for what they will do, but also celebrated for what they represent. Miloli'i has come together for a common purpose to affirm traditional fishing practices that will help sustain reef resources and fortify community identity. Indeed, this is about safeguarding physical sustenance, but it is equally about ensuring cultural sustenance, too.

We know from our longstanding relationships among the Miloli'i community that this is an effort that has spanned generations. Those who were once 'ōpio in the community when these conversations began are now the leaders behind the rules package being presented. Those kupuna who led the start of this effort are sadly no longer with us to see this day, but are nevertheless remembered and honored within what is being set forward. Those who are youth now will be empowered by this effort to be future leaders in this community, and continue the practices, traditions, and values unbroken through many lifetimes. These CBSFA rules will help to sustain reefs based on proven traditional practice. They will also continue to hold these individuals, families, and generations together as a community.

We further recognize that for the rest of us, this is not an effort to be excluded, but rather an invitation to join in those traditional and sustainable fishing practices when we are in the area, and contribute to its sustainability.

Mahalo for the opportunity to provide testimony,

Eric Co Vice President of Resiliency 'Āina + Community

Harold K.L. Castle Foundation 1197 Auloa Road Kailua, Hawai'i 96734 direct 808 263 8922 cell 808 295 9745 office 808 263 7073 fax 808 261 6918 Zoom: 808 295 9745

To review our giving approach, to apply, to learn more about us, click $\underline{\text{here}}$





15 April 2022

Division of Aquatic Resources (DAR)
Department of Land and Natural Resources (DLNR)
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Re: Miloli'i Community-based Subsistence Fishing Area (CBSFA) Rules and Management Plan

Aloha DAR Administrator and Staff:

My name is Roberta (Robin) Martin, president and co-founder of Hawai'i Marine Education and Research Center (HawaiiMERC), located in Miloli'i. The HawaiiMERC, was established in 2018 as the first community marine center on Hawai'i Island. HawaiiMERC is a State of Hawai'i and U.S. federal 501(c)3 non-profit organization created to facilitate education, conservation, and scientific investigation of the marine environment in South Kona and across Hawai'i Island. HawaiiMERC connects communities to timely scientific information on marine ecosystems and provides opportunities to connect cultural and scientific perspectives for the sustainability of reef ecosystems in Hawai'i. HawaiiMERC is focused on environmental education and community engagement. Prior to establishment of HawaiiMERC, members often came to Miloli'i to photograph and assess the reef condition. Following our establishment and witnessing aggregrious detrimental activities to the nearshore environment, HawaiiMERC has committed to supporting Kalanihale in the reinstitution of Makai Watch and other volunteer activities to ensure the success of the Miloli'i Community-Based Subsistence Fishing Area (CBSFA).

CBSFA designation was granted to Miloli'i in 2005. In 2019, Kalanihale represented their subsistence fishing village, informed DLNR they were ready to create a rules package. Today, we from the HawaiiMERC, write to strongly support the efforts and proposed management plan and rules submitted by Kalanihale for the Miloli'i CBSFA.

The people of Miloli'i are generational stewards of their place. They can trace their kūpuna to a time before western contact and they were well established throughout the area of Kapalilua. Today, they continue to 'auamo their kuleana to mālama 'āina, caring for the marine resources of their place. The ko'a of their coastline are still fed and maintained by 'ohana of Miloli'i, much in the manner that their kūpuna did.

• Their traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.



- The landmarks used by their kūpuna are the same landmarks they use today, and some of which have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share their narrative, marine management plan, and proposed rules.
- Miloli'i set forth compelling protection standards in their narrative and rules package which align well and reflect the conservation values and needs of neighboring conservation lands.
- Grounded in a common goal to provide protection for 'āina and natural resources, Miloli'i cultivated respectful and trusted relationships with agencies, partners, and communities that reflect their strong sense of mālama 'āina and supported other communities alike throughout the pae 'āina such as Hā'ena (Kaua'i), Mo'omomi (Moloka'i), Kīpahulu (Maui), and Ho'okena (Hawai'i).
- Miloli'i is consistent in its' narrative, proposed CBSFA rules package and practices, and further demonstrates their preparedness to co-manage and co-govern the CBSFA with agencies and partners.
 - o A CBSFA Marine Management organizational structure will be established to maintain the community's collaborative relationships with agencies and partners.
 - o Mohala Nā Konohiki Miloli'i will represent the community's place-based knowledge and narrative, continuing their traditional methods of area monitoring and surveying and incorporating modern methods and data.
 - o Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki.

At the request for a public hearing, Miloli'i's proposed rules package was modified. I support the recommendations of the Miloli'i community on (2) points of the rules package.

- I support the Pāku'iku'i Rest Area to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- I support the pāku'iku'i species rule to reflect that of what Miloli'i



Community designates as they are the generational stewards of Kapalilua.

The proposed CBSFA highlights the ongoing committment of the Miloli'i community to the stewardship of the reefs and nearshore resources of this region for the future generations. The proposed management plan and rules create a win-win for Miloli'i Village and surrounding subsistence fishers, while also helping DLNR to achieve its new management commitment for the State's Holomua Marine 30x30 program. HawaiiMERC remains committed to continued support of the Kalanihale Foundation and CBSFA group and their partners throughout the area.

Mahalo for allowing me to provide this testimony of support for Miloli'i CBSFA,

Roberta Martin PhD President, HawaiiMERC

Pobola E Marty

robin@hawaiiMERC.org

Z TOLIFE TO

Hawai'i Wildlife Fund

Post Office Box 1801, Kealakekua, Hawai'i, Hl 96750 & Post Office Box 790637, Paía, Maui, Hl 96779

Celebrating 26 years of protecting
Hawai'i's native wildlife through research, education and
conservation.

Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813
e: DLNR.aquatics@hawaii.gov / CBSFA@hawaii.gov (cc: miloliicbsfa@gmail.com)

Re: Miloli'i proposed CBSFA rules and Marine Management Plan – South Kona, Hawai'i

19 April 2022

Aloha DAR leadership,

Hawai'i Wildlife Fund (HWF) wholeheartedly supports the initiative of Kalanihale, of Miloli'i, South Kona in cooperation with the DLNR and community members to restore abundance to Miloli'i reefs and nearshore waters. The proposed rules and Marine Management Plan for their Community-Based Subsistence Fishing Area (CBSFA) are critical for that restoration to occur and HWF supports Kalanihale's Marine Management Plan and adoption of the proposed CBSFA rules.

The rural Hawaiian fishing village of Miloli'i, South Kona is home to Kama'āina steadfast in traditional fishing practices and stewardship of their 'Āina. They have and continue to rely upon fishing and gathering of marine resources for their subsistence and well-being. The health and resilience of the fishery is integral to ensure that subsistence, cultural, and religious practices continue for current and future generations.

Kūpuna of Miloli'i have always and still remain the guiding voice for Kalanihale as it navigates its way in response to observing dramatic declining health and abundance of marine resources in their waters. HWF recognizes the great efforts Kalanihale has done over the years and we have supported Kalanihale to meet some of their objectives (listed here):

* Community Engagements: Facilitate community awareness and feedback with the 'Ohana Miloli'i; Establish partnerships with key agencies, fishery councils and cultural committees. Host communities for cultural enrichment.

- ❖ Educational Programs: Maintain community awareness; Develop in-residence proficiency of konohiki ways; Educate 'Āina-based educational programs, 'Ohana learning of lawai'a pono, fishery rules, and stewardship.
- ❖ Health & Wellness Programs: Facilitate access to health services in Miloli'i Community; Host Health & Wellness events; provide enrichment programs to Miloli'i youth.
- Community-based Monitoring: Conduct frequent in-residence training and perform ongoing in-water, coastal, and marine species monitoring. Increase manpower and proficiency to sustain community-based monitoring objectives.
- ❖ State Agencies & Legislation: Advocate for the collective voice of the Miloli'i Community; Established Miloli'i Community-Based Subsistence Fishing Area (2005); Submission of Marine Management Plan (2021).

Hawai'i Nei is home to thousands of native species living from the depths of the pelagic environment and coral reefs to the very peak of Mauna Kea. Like many island ecosystems, a large percentage of the native wildlife living in the Hawaiian archipelago is endemic to this region. At the same time, island ecosystems are *much* more vulnerable to the threats of invasive species and natural disasters, and are consequently more at risk for extinction than their continental counterparts. In addition, and of utmost importance, the health and wellness of our island residents is intimately linked to the wellbeing of the surrounding environment (The Kohala Center 2016) and traditional ecological knowledge and lessons can be learned from the local community members and fishermen to help support and sustain these same marine resources into the future (Johannes 1981).

In this era of increasing anthropogenic threats to our coastal and marine ecosystems from climate change (sea-level rise, warming ocean temperatures, more frequent storm events, heightened drought / flooding patterns), coupled with excessive tourism, overdevelopment, and overfishing activities we need to take action immediately to both plan and to protect our natural resources and cultural practices (and think about generations to come). Such is the initiative that is being proposed at Miloli'i, and it is urgent that we act now to protect this Wahi Pana and the nearshore resources that Kalanihale and community members have sought to protect for the past two decades.

The following highlights three of the many reasons that our HWF team supports this effort:

- Securing the health and resilience of the fishery at Miloli'i is integral to ensuring that subsistence, cultural and spiritual practices continue for current and future generations. The success they have demonstrated has had a powerful positive influence with other communities throughout Hawai'i.
- We recognize that co-management efforts such as these will help the state achieve the goal of effectively managing 30% of nearshore marine waters by 2030. (More *effective* management means more fish in the sea for their intrinsic value and for the sustenance of future generations.)
- This proposal was based on the collective knowledge of Kūpuna, Kama'āina families, and traditional and customary practices specific to their place.

Hawai'i Wildlife Fund (HWF) is a small nonprofit organization that has been working to conserve native species in Hawai'i since 1996. During that time, we have been actively involved in research, education, restoration and advocacy projects related to the protection of coastal and nearshore ecosystems around the Pae 'Āina. HWF was founded by two former National Marine Fisheries scientists, and we have been involved in community-based fisheries management efforts since 2003 at the invitation of the former Community Conservation Network (CCN), now Kua'āina Ulu Auamo (KUA) to join the E Alu Pū network. We are also co-founders of the original Makai Watch program (another community-based marine management program), together with CCN, The Nature Conservancy, DOCARE and the communities of Miloli'i, and 'Āhihi-Kīna'u Natural Area Reserve.

We support regulations that facilitate local communities, concerned fishermen, and the DLNR to improve current marine resource conditions on an Ahupua'a or Moku scale. Since traditionally managed fishery zones where the community is dedicated and involved have standing stocks of reef fishes equal to that in fully protected marine reserves (Poepoe et al., 2003), they should be fully supported for community co-management initiatives. We share the spirit embodied in the E Alu Pū Resolution No. 1-2013 regarding CBSFA designations, rules and the work of many communities seeking to mālama their place through co-management approaches. While this particular proposal extends to the bounds of nine Ahupua'a, Kalanihale has shown that this entire region has been utilized for generations to support the families that live there, and protecting this whole area for future generations is of utmost importance.

We support communities that wish to develop subsistence fishery management areas and plans, including Miloli'i and Ho'okena on the island of Hawai'i, Ha'ena on Kaua'i, Kīpahulu on Maui, Mo'omomi on Moloka'i, and will continue to back other Moku or Ahupua'a that seek the same.

HWF advocates for the initiatives of Kalanihale, and their Marine Management Plan for Miloli'i (which includes adopting the rules for the CBSFA) as we have with this community since 2003, and we encourage you to do the same. Kalanihale and community members in Miloli'i have worked hard for decades on this CBSFA initiative and we urge you to move this process to completion. Mahalo for your time, consideration, and support of this proposal to sustain the native wildlife / habitats, cultural landscape, community connectivity and special, sacred place that is Miloli'i.

Me ke aloha pumehana,

Megan R. Lamson, M.S.

President & Hawai'i Program Director megan@wildhawaii.org

(808) 769-7629 (debris hotline)

Hannah J. Bernard

Co-founder & Executive Director hannah@wildhawaii.org

(808) 280-812

Cited references in SUPPORT of this CBSFA:

- Johannes, R.E. "Words of the Lagoon: Fishing and Marine Lore in the Palau District of Micronesia". University of California Press, Berkeley, USA. 1981.
- Poepoe, K. K., P. K. Bartram, and A.M. Friedlander. "The use of traditional knowledge in the contemporary management of a Hawaiian community's marine resources." Fishers' knowledge in fisheries science and management (2007): 119-143. (Avail for download here: LINK)
- The Kohala Center. "Health Impact Assessment of the of the proposed Mo'omomi Community-Based Subsistence Fishing Area." Report from March 2016. (Avail for download here: <u>LINK</u>)

Hui Maka'ainana O Makana

P.O Box 1225 Hanalei, HI 96714

April 18, 2022

Aloha Kakou,

On behalf of the Hui Maka'ainana O Makana, Ha'ena, Kaua'i, we stand in strong support of Miloli'i Community Based Subsistence Fishing Area pursuit. They were instrumental, along with Mo'omomi Molokai, Kipahulu Maui, Ho'okena Hawai'i island and Ha'ena Kaua'i in molding the template for HRS 188-22.6 almost twenty years ago. This legislation acknowledges and reaffirms quoting from the DAR/DLNR website a "strong recognition that government cannot do it alone. Community based management and buy-in is critical to sustaining natural resources now and for generations to come". Community based resources management, like our ancestors, is based in adaptability which sustain us in our past. My friend likes to say "the answers to the future is in our past". With climate changing and ocean levels rising affecting our fisheries, we cannot depend on our current generic "one size fits all " rules and regulations handbook, adaptability is crucial. In the past, we have spent time with the families of Miloli'i and know their commitment to become a CBSFA. Miloli'i, like Ha'ena, are potentially living educational classrooms for generations to come. Miloli'i and other upcoming CBSFAs know their places well and should be recognized for their efforts. For us in Ha'ena, our CBSFA has been working based on our fishers observations and reenforced by DAR with collaborating scientific data. We are strong advocates for CBSFA and hope to help reach Hawai'i's goal and commitment to have 30% of Hawaiian waters managed by 2030.

Mahalo for this opportunity to support Miloli'i's CBSFA,

Presley Wann (current President for Hui Maka'ainana O Makana)



Ka 'Ohana O Honu'apo

Post Office Box 903 Nā'ālehu, HI 96772

ka ohana@honuapopark.org

Re: Miloli'i Community-Based Subsistence Fishing Area Rules & Marine Management Plan

19 April 2022

Division of Aquatic Resources 1151 Punchbowl Street, Room 330 Honolulu, HI 96813 e: DLNR.aquatics@hawaii.gov cc: Kalanihale (miloliicbsfa@gmail.com)

Aloha Division of Aquatic Resources' Administrator & Staff,

Ka 'Ohana O Honu'apo (KOOH) supports the efforts of Kalanihale, of Miloli'i, South Kona in cooperation with the State Department of Land and Natural Resources and their community members to restore abundance to Miloli'i reefs and nearshore waters. The proposed Rules and Marine Management Plan for their Community-Based Subsistence Fishing Area (CBSFA) are critical for that restoration to occur and KOOH supports Kalanihale's Marine Management Plan.

The rural Hawaiian fishing village of Miloli'i, South Kona is home to Kama'āina steadfast in traditional fishing practices and stewardship of their 'Āina. They have and continue to rely upon fishing and gathering of marine resources for their subsistence and well-being. The health and resilience of the fishery is integral to ensure that subsistence, cultural, and religious practices continue for current and future generations.

Kūpuna of Miloli'i have always and still remain the guiding voice for Kalanihale as it navigates its way in response to observing dramatic declining health and abundance of marine resources in their waters. KOOH recognizes the great efforts Kalanihale has done over the years and we have supported Kalanihale to meet some of their objectives (listed here):

- Community Engagements -- Facilitate community awareness and feedback with the 'Ohana Miloli'i; Establish partnerships with key agencies, fishery councils and cultural committees. Host communities for cultural enrichment.
- Educational Programs -- Maintain community awareness; Develop in-residence
 proficiency of konohiki ways; Educate 'Āina-based educational programs, 'Ohana
 learning of lawai'a pono, fishery rules, and stewardship.

- Health & Wellness Programs -- Facilitate access to health services in Miloli'i Community; Host Health & Wellness events; provide enrichment programs to Miloli'i youth.
- Community-based Monitoring -- Conduct frequent in-residence training and perform ongoing in-water, coastal, and marine species monitoring. Increase manpower and proficiency to sustain community-based monitoring objectives.
- State Agencies & Legislation -- Advocate for the collective voice of the Miloli'i Community; Established Miloli'i Community-Based Subsistence Fishing Area (2005); Submission of Marine Management Plan (2021).

Ka 'Ohana O Honu'apo is a community-based, non-profit organization whose mission is to:
"To restore, care for and protect the natural and cultural resources within the Honu'apo area.

Utilizing the values of Mālama 'Āina (care for the land), Kūpono (honesty and integrity), and
Kuleana (duty and responsibility), we will work in community partnerships to preserve this area for
future generations." KOOH community volunteers have been actively working with the county,
state, and community partners since our foundation in 2005 to help manage and improve the 230
acres now known as Honu'apo Park. We honor the many decades of effort that Kalanihale and the
Miloli'i community have put into sustaining their marine resources for future generations. It is
critical for places like this one to be protected from development and overharvesting of resources
for our local community members, as we have strived to do here in Ka'ū at Honu'apo for the past
17 years.

We stand together with the Kalanihale and Miloli'i community members and advocate to DLNR-DAR and BLNR Board members to support their CBSFA proposed rules and marine management plan.

Mahalo,
Kalaho'ohie Mossman
KOOH Board President
e: kalahoohie@gmail.com

gall the other Ka 'Ohana O Honu'apo Board of Directors, including:

- Nohea Kaawa, Vice President
- Ken Sugai, Treasurer
- Megan Lamson Leatherman, Secretary
- Daniel Dierking, Director
- Jodie Rosam, Director

cc: kaohanaohonuapo@gmail.com

Kai Kuleana Network

PO Box 1056 Kamuela, HI 96743

May 5th, 2022

Division of Aquatic Resources 1151 Punchbowl Street Room 330 Honolulu, HI 96813

Re: Letter of Support for Miloli'i Community-Based Subsistence Fishing Area Rules & Management Plan

Aloha Division of Aquatic Resources Administrator and Staff,

The Kai Kuleana Network supports the efforts of the Kalanihale Foundation of Miloli'i in cooperation with the State Department of Land and Natural Resources (DLNR) and community members to restore abundance to Miloli'i reefs and nearshore waters through their rules and management plan proposal for their Community-Based Subsistence Fishing Area (CBSFA).

The Kai Kuleana Network formed in 2013 and is composed of 15 communities in West Hawai'i, from South Kona to North Kohala, that are actively engaged in place-based conservation for people and nature to thrive, and collectively supports efforts to engage in solution-oriented community actions to promote 'āina momona (healthy vibrant places with engaged communities). The network aims to support one another in the perpetuation of traditional practices through

active stewardship, capacity building, and place-based management that is intimately connected with the kai (sea). This has allowed Kai Kuleana members to build support for sustainable fisheries policy, community engagement in conservation initiatives, effective collaborations and co-management with government agencies, and increased dialogue amongst members to overcome challenges together.

The 'ohana of Miloli'i and the surrounding areas have and continue to rely upon fishing and gathering of marine resources for their subsistence and well-being. The health and resilience of the fishery is integral to ensuring that subsistence, cultural and religious practices continue for current and future generations.

The Kalanihale Foundation, on behalf of the kama aina families and kūpuna of Miloli, Kapalilua, South Kona, have worked together for more than 10 years to mālama their subsistence resources. Since 2010, after observing dramatic declines in marine life, Kalanihale has been actively working to restore abundance by caring for, studying, and managing the cultural and



marine resources within the CBSFA area. In 2005, the Miloli'i Community Based Subsistence Fishing Area was designated through Act 232. Following community based monitoring, outreach through meetings, field trips, lawai'a camps, presentations, and other individual and group engagements, many of which prompted dozens of revisions and compromises, the community submitted their proposal to DLNR for your consideration and to engage in the formal rulemaking process.

The representatives of the Kai Kuleana network support the proposed management plan as presented by the community, including the support of the Pāku'iku'i Rest Area to be designated from Makahiki Point (Pāpā) to Kapulau Point (Honomalino) as Honomalino Bay is designated as a pu'uhonua, as well as support of the pāku'iku'i species rule to reflect that of what the Miloli'i Community designates as they are the generational stewards of Kapalilua.

The Kai Kuleana Network would like to applaud Miloli'i on thoughtful approach to place-based management to ensure the marine resources are well cared for and thriving. We encourage the Division of Aquatic Resources and the State of Hawai'i Board of Land and Natural Resources to support Miloli'i through the rule-making process.

Mahalo nui.

Signed on behalf of the Kai Kuleana Network by lineal descendants and representatives from Kailapa, Honokōhau, Puakō, Ka'ūpūlehu, Kīholo, Kohanaiki, Pahoehoe, Kahalu'u, Keauhou, Ho'okena, Kauhola, and Miloli'i.

Malia Kipapa

Kipapa 'Ohana, Pahoehoe, Kahalu'u,

Blossom Pualani Lincoln Maielua President, Kailapa Community Association

Keauhou

Ku'ulei Keakealani

Lineal Descendant of Kekaha, North Kona

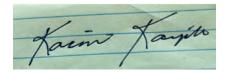
Ka'üpülehu Marine Life Advisory Committee

Cultural Director

Hannah Kihalani Springer

Hui Aloha Kīholo

Hui Aloha Kiholo



Kaʻimi Kaupiko Paʻa Pono & Kalanihale

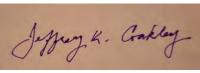




George Fry III Puakō Community Association Puakō, South Kohala, Hawai'i Island



Māhealani Pai Pai 'Ohana of Honokōhau, Kaloko North Kona, Hawai'i Island



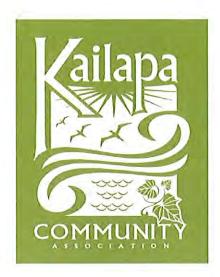
Jeffrey K. Coakley Kauhola, North Kohala, Hawai'i Island



Charles Young KUPA Friends of Ho'okena Beach Park







Kailapa Community Association 61-4016 Kai 'Opae Place Kamuela, Hawai'i 96743 www.kailapa.org 808-769-4046

Mission

To empower Native Hawaiians living in Kohala, specifically the Kailapa Community, supporting physical, mental, spiritual, and cultural health of people and place.

Vision Ehuehu i Ka Pono *Thriye in balance*

Board of Directors
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Kaliko Grace
Tiga Kailimai
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Kerwyn Ka'ahanui
Gail No'eau
Miulan Paalua
Isabelle Kalaau-Catrett

Contact board@kailapa.org office@kailapa.org

Miloli'i Community-Based Subsistence Fishing Area Rules & Marine Management Plan

April 20, 2022

Division of Aquatic Resources 1151 Punchbowl Street Room 330 Honolulu, HI 96813

Division of Aquatic Resources Administrator & Staff,

<u>Kailapa Community Association</u> supports the efforts of Kalanihale, of Miloli'i, South Kona in cooperation with the State Department of Land and Natural Resources and their community members to restore abundance to Miloli'i reefs and nearshore waters. The proposed Rules and Marine Management Plan for their Community-Based Subsistence Fishing Area (CBSFA) are critical for that restoration to occur and <u>Kailapa Community Association</u> supports Kalanihale's Marine Management Plan.

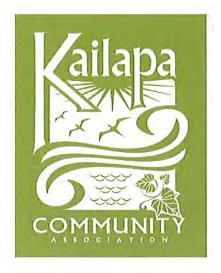
The rural Hawaiian fishing village of Miloli'i, South Kona is home to kama'āina steadfast in traditional fishing practices and stewardship of their 'āina. They have and continue to rely upon fishing and gathering of marine resources for their subsistence and well-being. The health and resilience of the fishery is integral to ensure that subsistence, cultural, and religious practices continue for current and future generations.

Kūpuna of Miloli'i have always and still remain the guiding voice for Kalanihale as it navigates its' way in response to observing dramatic declining health and abundance of marines resources in their waters. Kailapa Community Association recognizes the great efforts Kalanihale has done over the years to meeting their objectives (listed here):

<u>Community Engagements</u> Facilitate community meetings to foster discussions of community health and concerns; Establish partnerships with key state and county agencies, fishery councils and cultural committees. Host visiting communities for cultural enrichment.

Educational Programs Maintain community awareness; Develop in-residence proficiency of konohiki concepts and practices; Educate - 'Āina-based educational programs, 'ohana workshop learning of lawai'a pono, fishery rules, and stewardship.

Health & Wellness Programs Facilitate access to health services for Miloli'i Community; Host Health & Wellness events in Miloli'i; Provide enrichment programs to Miloli'i yout!



Kailapa Community Association 61-4016 Kai 'Opae Place Kamuela, Hawai'i 96743 www.kailapa.org 808-769-4046

Contact

board@kailapa.org office@kailapa.org Community-based Monitoring Conduct regular in-residence training and in-water, coastal, and marine species monitoring. Recruit and increase skilled workforce and proficiency to sustain community-based monitoring objectives.

State Agencies & Legislation Advocate for the collective voice of the Miloli'i Community; Established Miloli'i Community-Based Subsistence Fishing Area (2005); Submission of Marine Management Plan (2021).

Kailapa is a community in the kuleana district of Kawaihae, and we fully support the preservation, preserving substance rights, traditional practices as well as sustainability of our shores or sea of any and all of the Hawaiian Islands.

Kailapa Community Association advocates the efforts of Kalanihale and their Marine Management Plan. I encourage you to do the same.

Mahalo,

Shawna Kaulukukui, KCA President,04/20/2022

Board of Directors

Shawna Kaulukukui-President

Kaliko Grace -Vice President

Tiga Kailimai- Secretary

Brandie Oye- Treasure Tommy Silva- Security

Gail No'eau-Facilities

Kerwyn Ka'ahanui-Firewise

Isabella Kalaau-Catrett Miulan Paalua -Administrative Assistant -

Mission

To empower Native Hawaiians living in Kohala, specifically the Kailapa Community, supporting physical, mental, spiritual, and cultural health of people and place.

Vision Ehuehu i Ka Pono Thrive in balance

Board of Directors Shawna Kaulukukui Kaliko Grace Tiga Kailimai Brandie Oye H. Tommy Silva Kerwyn Ka'ahanui Gail No'eau Miulan Paalua Isabelle Kalaau-Catrett



He Lawai'a no ke kai papa'u, he pokole ke aho; He Lawai'a no ke kai hohonu he loa ke aho" "A fisherman of shallow seas uses a short line; a fisherman of the deep sea uses a long line."

KALANIHALE

Aloha,

I, Ka'imi Namaielua Kaupiko, Executive Director of Kalanihale submit this written testimony in **strong support** of adopting the rules package for Miloli'i Community-Based Subsistence Fishing Area (CBSFA) with recommendations.

Kalanihale represents the collective voices of Miloli'i, the generational stewards of Kapalilua. Our kūpuna and 'ohana have always been well established throughout Kapalilua and today, we continue to 'auamo our kuleana to mālama 'āina, caring for the marine resources of this place. We feed and maintain the ko'a of this coastline in the same way our kūpuna have done for generations. We are kauwā of this 'āina kūpuna. We mālama 'āina and feed our people.

We were granted CBSFA designation in 2005, and in 2019, we formalize our monitoring and surveying activities to incorporate modern scientific methods while working to create a rules package. I submit this testimony in support of the rules package with the following supportive comments:

- Our traditional and customary fishing practices are reflected in the rules package, placing kapu on unsustainable harvest methods.
- The landmarks used by our kūpuna are the same landmarks we use today, and some have become part of the rules package as boundaries for CBSFA subzones.
- Miloli'i CBSFA Strategic & Planning Hui held extensive outreach, public scoping, and peer review with various communities, partners, and colleagues from fishery networks to share our narrative, marine management plan, and proposed rules.
- Our protection standards we state in our narrative and in our rules package align with and reflect the protective standards of neighboring conservation lands, managed by both state agencies and non-government organizations.
- Grounded in a common goal to provide protection for 'āina and natural resources, the Miloli'i CBSFA Strategic Hui cultivates respectful and trusting relationships with agencies, partners, and communities that reflects our traditional values of mālama 'āina.
- Our message of traditional stewardship and commitment to incorporate modern methods are consistent in our narrative, our proposed CBSFA rules package and our practices. It further demonstrates our preparedness to co-manage our CBSFA with agencies and partners.

Phone: (808)937-1310

Fax:(866)**2**6**4**6**7**6

89-1831 Milolii Road Captain Cook, HI 96704 kalanihale@gmail.com www.kalanihale.com



He Lawai'a no ke kai papa'u, he pokole ke aho; He Lawai'a no ke kai hohonu he loa ke aho" "A fisherman of shallow seas uses a short line; a fisherman of the deep sea uses a long line."

KALANIHALE

- A CBSFA Marine Management organizational structure will be established to maintain our community's collaborative relationships with agencies and partners.
- Mohala Nā Konohiki Miloli'i will represent our place-based knowledge and narrative, continuing traditional methods of area monitoring and surveying and incorporating modern methods and data.
- Miloli'i's CBSFA Marine Management will retain an in residence marine specialist to provide advisory support and training to Mohala Nā Konohiki Miloli'i.

While requesting approval to hold this public hearing, the rules package proposed by our community was modified. Therefore, I provide recommendations on (2) specifics of the rules package regarding those changes.

- Miloli'i appeals for kapu loa (no take) of pāku'iku'i throughout the CBSFA to be established until an agreed upon sunset date of 5 years. This highest protection from kānaka behavior is the commitment we support to assist the recovery of their abundance.
- After a period of 5 years, kapu loa is to remain in place for the Pāku'iku'i Rest Area and a bag limit of 5 per person per day throughout the rest of the CBSFA.
- O The Pāku'iku'i Rest Area is to be designated from Makahiki Point, Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone. This rest area is to be a focus study area for the pāku'iku'i. We have and will continue to monitor the pāku'iku'i during kapu and after.

Miloli'i is our home, our piko, and we are mauliauhonua – of this place. We mālama our 'āina and from this 'āina we feed our people.

Mahalo for allowing Kalanihale to provide this testimony on behalf of the community and 'āina of Miloli'i Fishing Village.

Tain Kayries May 5, 2022

Phone: (808)937-1310

Fax:(866)262-6776

Kaʻimi Namaielua Kaupiko, Executive Director Kalanihale, 89-1831 Miloliʻi Road Miloliʻi, Kapalilua, Moku O Keawe miloliicbsfa@gmail.com 808 937.1310 Date



May 2, 2022

Division of Aquatic Resources 1151 Punchbowl Street Room 330 Honolulu, HI 96813

Re: Letter of Support for the Miloli'i Community-Based Subsistence Fishing Area Rules and Management Plan

Division of Aquatic Resources Administrator and Staff, Me ka ha'aha'a,

The Ka'ūpūlehu Marine Life Advisory Committee (KMLAC) supports the efforts of the Kalanihale Foundation of Miloli'i, in cooperation with the State Department of Land and Natural Resources (DLNR) and community members to restore abundance to Miloli'i reefs and nearshore waters through their rules and management plan proposal for their Community-Based Subsistence Fishing Area (CBSFA).

In 2005, the Miloli'i Community Based Subsistence Fishing Area was designated through Act 232, and became the hiapo, the first born, among the communities which advocate for CBSFA designation.

It is not enough to be designated a CBSFA. Generating an appropriate management plan and developing the proper rules to realize the vision and intentions of a community for their place, resources, and each other, completes the task. This is a daunting process, but with clarity of thought, vision, and speech; strength of back, mind, and character; and tenderness of hearts, hands, and voices, Miloli'i has persevered and has prepared the proposal at hand.

The proposal reflects the strong intersection of native sensibility and scientific method, of place based intelligence and civic engagement, of 'āina and kaiāulu, of aloha and mālama.

The KMLAC, though not a CBSFA, has also worked successfully with the DLNR's Division of Aquatic Resources and community members to craft a place-based fisheries management rule to restore abundance to our reefs and nearshore waters and re-establish sustainable fishing practices. We understand the rigors of the process and commend Miloli'i for their continuing and comprehensive work and pray them well through this rule making process. We pray your support for them and approval of their proposal as well.

'O mākou nō me ka 'oia'i'o,

Hannah Kihalani Springer

for the Ka'ūpūlehu Marine Life Advisory Committee

Hand Wholasi portuger





Board of Land Natural Resources 1151 Punchbowl Street Honolulu, HI 96813 blnr.testimony@hawaii.gov

Re: Kua'āina Ulu Auamo's (KUA) Support for the Miloli'i Community-Based

Subsistence Fishing Area, Hawai'i, to Manage and Protect Fish Stocks and to Reaffirm Traditional and Customary Native Hawaiian Subsistence Fishing

Practices Along the Southwest Coast of Hawai'i Island

Aloha Administrator Neilson and team,

Kua'āina Ulu 'Auamo (KUA) enthusiastically submits this letter in support of the Miloli'i Community-Based Subsistence Fishing Area (CBSFA) rules package.

Kuaʻāina Ulu ʻAuamo means "grassroots growing through shared responsibility," our acronym KUA means backbone. KUA works to empower communities to improve their quality of life through caring for their environmental heritage together. We employ a community-driven approach that currently supports a network of more than 36 mālama 'āina (care for that which feeds) community groups collectively referred to as E Alu Pū (moving forward together), over 40 fishpond restoration projects and practitioners called the Hui Mālama Loko I'a (HMLI; the group that cares for fishponds), and the Limu (seaweed) Hui made up of limu loea (experts) all from across the state.

The foundational vision and work to create KUA has deep roots in the lawai'a community of Miloli'i and their proposed CBSFA rules. In the late 90's and early 2000's lawai'a ohana there began to interact or reach out to similar communities across the state. Some yet to be born and others who sat at their elders' feet over 2 decades ago when the CBSFA vision was first discussed now carry forward the vision of those before them. KUA exists because of those lawai'a and 'ohana. So does the CBSFA law and Miloli'i's pre-existing 2005 designation. Indeed, Kalanihale and its community leadership, on behalf of kama'āina families and kūpuna of Miloli'i, Kapalilua, South Kona, took hold of this kuleana to mālama their fisheries in 2010 and actively worked to restore abundance by caring for, studying, and managing the cultural and marine resources within their designated CBSFA area.

Throughout the ten years of KUA's organizational existence community-based fishery management and CBSFA's continue to be a network priority. Today, Kalanihale continues to show leadership at the statewide and local level. It takes leadership in E Alu Pū's governance council and Lawai'a Pono Hui (focus group). They educate their youth, connect them to their place and are building on a modern vision of kauhale.

Our founders in the 'ohana of the Miloli'i and the surrounding areas continue to rely upon fishing and gathering of marine resources for their subsistence, cultural practice, and well-being. The health and resilience of their fishery is integral to ensuring that subsistence, cultural and religious practices continue for current and future generations. The long-term vision, leadership, partnership, sweat equity, and vision of Kalanihale, their leadership and lineage as long-term advocates and practitioners for aloha 'āina, mālama 'āina, 'āina based education, co-management and co-governance should be lauded, celebrated, and supported. Passage of these rules affirm our state's constitutional kuleana, and its interest and investment in a citizenry, and Native Hawaiian community



and ethic that not only thrives on the abundance of nature but cares for and works with our state to restore our special places so they once again can be more provident.

Lastly, at the request for a public hearing, Miloli'i's proposed rules package was modified. KUA supports the recommendations of the Miloli'i community on (2) points of the rules package:

- KUA supports the Pāku'iku'i Rest Area to be designated from Makahiki Point,
 Pāpā to Kapulau Point, Honomalino as Honomalino Bay is designated as a pu'uhonua subzone.
- KUA supports the pāku'iku'i species rule to reflect that of what Miloli'i Community designates as they are the generational stewards of Kapalilua.

Please approve this rule package and move it forward to decision-making.

Pūpūkahi i holomua e hoʻokanaka (Let us unite to better the human condition)

Kevin K.J. Chang Co-Director



Mālama Pūpūkea-Waimea Post Office Box 188 Hale'iwa, HI 96712

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Jenny Yagodich, Director of Educational Programs & Makai Watch Coordinator

Federal Nonprofit Organization 501(c)(3) FEIN 27-0855937 www.pupukeawaimea.org info@pupukeawaimea.org Re: STRONG SUPPORT for the proposed adoption of a new chapter under Hawaii Administrative Rules (HAR) to establish the Milolii Community-Based Subsistence Fishing Area (CBSFA) to ensure long-term sustainable populations of fish and other marine species and to reaffirm and perpetuate fishing practices that were customarily and traditionally exercised for Native Hawaiian subsistence, culture, or religion along the southwest coast of Hawai'i Island.

Aloha Administer Nielson and the Department of Land and Natural Resources, Division of Aquatic Resources,

As you know, Mālama Pūpūkea-Waimea (MPW) is the Hawai'i non-profit organization that cares for, educates about, and protects the Pūpūkea Marine Life Conservation District (MLCD) here on the North Shore of O'ahu. We are proud to be O'ahu's first and longest-standing Makai Watch community committed to collaborating with DLNR's Division of Conservation and Resources Enforcement.

We are in full support of the Miloli'i CBSFA rule package (as originally proposed). We support CBSFA's because we understand and value a community-based approach to marine conservation and co-management when it is initiated by the generational stewards of that place who continue today to care for their resources based on traditional ecological knowledge.

These stewards know their places better than anyone else and the knowledge they hold is based on hundreds of years of observation and a deep understanding of the resource itself. Their goal of protecting our fragile marine resources now, and for future generations comes from a true, selfless sense of kuleana and a desire to ensure those resources are harvested in a way that is based on reproduction and sustainability.

Mālama Pūpūkea-Waimea and Miloli'i, while vastly different in our issues and challenges, share in a common goal of providing protection for our marine resources, and of perpetuating lawai'a pono so that our marine resources will be abundant for generations to come. We commend them on their efforts and are committed to supporting them however we can.

Mahalo for this opportunity to testify in support of the Miloli'l CBSFA rules package,

Jenny Yagodich

enny Gagodich

Director of Educational Programs & Makai Watch Coordinator
Mālama Pūpūkea-Waimea

Date: April 20, 2022

To: Department of Land and Natural Resources (DLNR)

From: Moku o Manokalanipō, Kaua'i Council of the Association of Hawaiian Civic

Clubs

Malia Nobrega-Olivera, President

malianob@gmail.com

Re: Notice #: 0001364991-02 Proposed Adoption of a New Chapter under

Hawaii Administrative Rules (HAR) to Establish the Milolii Community-Based

Subsistence Fishing Area (CBSFA)

Aloha:

Moku o Manokalanipō is writing in STRONG SUPPORT of the <u>Proposed Adoption of a New Chapter under Hawaii Administrative Rules (HAR) to Establish the Milolii Community-Based Subsistence Fishing Area (CBSFA)</u>. Many members of Moku o Manokalanipō have visited Miloli'i, have 'ohana in Miloli'i, have partnered with Miloli'i on educational capacity building programs including empowering the youth to utilize technology to document the ancestral knowledge of many Kupuna, have been fed by the resources of Miloli'i, have exchanged resources from Kaua'i for resources in Miloli'i, and so much more.

We STRONGLY SUPPORT the rules package that the kia'i, generational stewards of Miloli'i are proposing as they continue to hānai the ko'a as just one of the important Kuleana they have for this area.

We have seen and witnessed the ongoing growth here in Hā'ena of not only the people but the resources that continue to flourish since they too have gone through this process of being a CBSFA.

Therefore, Moku o Manokalanipō respectfully urges DLNR to SUPPORT the <u>Proposed Adoption of a New Chapter under Hawaii Administrative Rules (HAR) to Establish the Milolii Community-Based Subsistence Fishing Area (CBSFA).</u>

The Hawaiian civic club movement was founded in 1918 by Congressional Delegate Prince Jonah Kūhiō Kalaniana'ole with the creation of the Hawaiian Civic Club; the Association was formally organized in 1959 and in 1968, the Hawaiian Civic Clubs on the island of Kaua'i organized Moku o Manokalanipō, the Kaua'i Council of the Association of Hawaiian Civic Clubs.



West Hawai'i Office: 75-1000 Henry St. #205, Kailua-Kona, HI 96704 Honolulu Office: 540 N. Nimitz Hwy. #200, Honolulu, HI 96817

Department of Land and Natural Resources Public Hearing

For Proposed Adoption of Hawai'i Administrative Rules
Chapter 13-60.XX, Miloli'i Community-Based Subsistence Fishing Area, Hawai'i

April 20, 2022

5:30 p.m.

Miloli'i Community Outdoor Pavillion

The Office of Hawaiian Affairs ("OHA") <u>STRONGLY SUPPORTS</u> the Miloli'i Community-Based Subsistence Fishing Area (CBSFA) to sensure long-term sustainable populations of fish and other marine species and to reaffirm and perpetuate fishing practices that were customarily and tradtionally exercised for Native Hawaiian subsistence, culture, or religion along the southwest coast of Hawai'i Island.

The proposed CBSFA extends from Pa'akai Point at Kipahoehoe in the north to Kauna in the south, from the shoreline out to the 100-fathom depth contour, and includes the following sub-zones: the 'Ōpelu Traditional Management Zone, the Pu'uhonua Papa, the Pāku'iku'i Rest Area, Puakaia Miloli'i, the Pu'uhonua Honomālino, the Pu'uhonua Kapua, and the Pu'uhonua Manukā.

In the spirit of the Paoakalani Declaration, Ka 'Aha Pono '03: Native Hawaiian Intellectual Property Rights Conference held in Waikīkī, and the passage of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) at its 2007 General Assembly, OHA supports and encourages Native Hawaiian communities and individuals to the right of self-determination, and by virtue of that right to freely determine their political status to pursue their economic, social and cultural development, which includes determining appropriate use of their traditional knoweldge, cultural expressions, artforms, and natural and biological resources.

The Hawai'i State Legislature's 2004 session, via Senate Resolution (SR87), Recognizing Native Hawaiians as Traditional Indigenous Knoweldge Holders and Recognizing Their Collective Intellectual Property Rights, reported findings that the value of Native Hawaiian tradtional knoweldge is exhibited in many forms, including through natural resource management principles, such as mālama 'āina, the ahupua'a system, agricultural systems such as lo'i and loko i'a; lā'au lapa'au and ka ho'okele - wayfinding. Less than 200 years ago, the eight main Hawaiian Island's resources sustained a thriving population that was close to contemporary numbers through a resource governance system founded on observational, experiential

knoweldge and tried and true, centuries-long practices. Research affirms that Native Hawaiians sustainably caught 50% more fish than modern Hawai'i fishers proving that Native Hawaiian traditional marine management provided three times the maximum sustainable yield for island nations worldwide today with an average harvest of 12 metric tons of fish per square kilometer of reef annually from the years 1400 to 1800¹. Its imperative that resource management prioritizes traditional knowledge as the basis for community-driven stewardship and regulations.

OHA commends Kalanihale and the communities of Kapalilua for their collaobrative efforts toward the Miloli'i CBSFA. Further, OHA appreciates the Miloli'i CBSFA's acknowledgment of the importance of maintaining and stewarding valuable subsistence resources that reflect regional traditions, customs, and practices; and is confident, with the support from their community partners, they can steward the resources within their CBSFA jurisdiction to benefit all.

Finally, OHA calls upon governmental policy makers and adminstrators to work towards streamlining the CBSFA process so that future communities are able to engage the process with ease. And, as a comprehensive reflection of the needs and desires of the Miloli'i community, OHA believes that the Miloli'i CBSFA will serve as an invaluable guide to future policies, decisions, and actions that can best suit Hawai'i nei and all its residents.

¹ McClenachan, Loren and Kittinger, John N. Multicentury trends and the sustainability of coral reef fisheries in Hawai'i and Florida. Fish and Fisheries, Vol. 14, Pg. 11, Issue 3. March 20, 2012.



To: Brian Neilson, Administrator
Division of Aquatic Resources
Department of Land and Natural Resources
1151 Punchbowl Street Room 330
Honolulu, Hawai'i 96813
Via e-mail: DLNR.Aquatics@hawaii.gov

Date: April 20, 2022

Re: Support for Miloli'i Community-Based Subsistence Fishing Area Rules

Aloha Administrator Neilson,

The Sierra Club of Hawai'i, on behalf of its 20,000 members and supporters, STRONGLY SUPPORTS the adoption of the Miloli'i Community-Based Subsistence Fishing Area rules. The public trust doctrine enshrined in our state constitution requires the proactive protection of our nearshore resources, including and particularly for the protection of Native Hawaiian traditional and customary and subsistence practices, and thereby counsels the adoption of this long-awaited, extremely well-vetted proposal without any further undue delay.

The Hawai'i State Constitution makes clear that our natural and cultural resources, including our nearshore marine resources, are subject to the public trust, and therefore must be managed and protected for the benefit of present and future generations.² The Hawai'i State Constitution further requires the state and its agencies to protect and enforce Native Hawaiian rights, including traditional and customary practices associated with, and dependent upon, carefully managed and abundant nearshore resources.³ The Hawai'i State Legislature has accordingly tasked the Board of Land and Natural Resources ("BLNR") as the principle agency responsible for upholding the state's public trust obligations with respect to our marine and aquatic resources,⁴ and has authorized the BLNR to adopt community-based subsistence fishing area rules that "reaffirm[] and protect[] fishing practices customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion" – including rules specifically for the subsistence community of Miloli'i.⁶

However, despite longstanding reports and ongoing concerns by both Western and Native Hawaiian scientists, fishers, and others regarding the continuous decline of our nearshore fisheries – to the detriment of the public and Native Hawaiian traditional and customary practices – the

¹ See In Re Water Use Permit Applications, 94 Hawai'i 97 (2000).

² Haw. Const. Art. XI Secs. 1, 6.

³ HAW. CONST. ART. XII SEC 7.

⁴ HAW. CONST. ART. XI, SEC. 2; HRS § 187A et. seq.

⁵ HRS § 188-22.6.

⁶ HRS § 188-22.7.



BLNR has largely failed to take the proactive management measures needed to uphold the public trust and conserve and protect our nearshore resources. Notably, despite having the authority to promulgate community-based subsistence fishing area rules for nearly 30 years, and despite being directed by the legislature to establish a community-based subsistence fishing area for Miloli'i nearly 20 years ago, the BLNR has only established one (1) community based subsistence fishing area in all of Hawai'i.

The instant rule proposal now provides the BLNR with the opportunity to better uphold its public trust obligations in the proactive protection of our nearshore resources and constitutionally recognized Native Hawaiian traditional and customary practices. As demonstrated by the extensive administrative record provided to the Department and the BLNR, the proposed administrative rules also reflect a community-driven, culturally focused management approach, informed by traditional ecological knowledge, that may be key to ensuring that our nearshore resources and associated cultural and non-commercial harvesting practices are protected for the benefit of present and future generations.⁸

Given its constitutional public trust responsibilities, it is incumbent upon the BLNR and the Department to shift their priorities towards the more timely facilitation of community-based subsistence fishing area proposals, including the Miloli'i proposal that is the subject of today's public hearing. Communities like Miloli'i should not have to work for more than 15 years to obtain the support necessary for them to assist the BLNR in the fulfillment of its constitutional responsibilities.

Accordingly, the Sierra Club of Hawai'i strongly supports the adoption of the proposed Miloli'i community-based subsistence fishing area rules. Mahalo nui for your consideration of this testimony.

Sincerely,

Wayne Tanaka, Director Sierra Club of Hawai'i

⁷ Megan Mayhew Bergman, 'We're at a crossroads': Who do the fish of Hawaii belong to?, THE GUARDIAN, Aug. 26, 2020 available at https://www.theguardian.com/environment/2020/aug/26/hawaii-fish-waters-native-commercial-fishers; Shawna A. Foo et. al., *Impacts of pollution, fishing pressure, and reef rugosity on resource fish biomass in West Hawaii*, 31 Ecological Applications e2213 (2021).

⁸ See, e.g., Colleen Uechi, *UN honors Moloka'i group for fishery conservation*, THE MAUI NEWS, Oct. 7, 2019, available at https://www.mauinews.com/news/local-news/2019/10/un-honors-molokai-group-for-fishery-conservation/; Wayne Tanaka, *United Nations recognizes Moloka'i and Kaua'i organizations as climate leaders*, KA WAI OLA NEWS, July 27, 2019, available at https://kawaiola.news/cover/united-nations-recognizes-molokai-and-kauai-organizations-as-climate-leaders/.

The Nature Conservancy, Hawai'i and Palmyra 923 Nu'uanu Avenue Honolulu, HI 96817

Tel (808) 537-4508 Fax (808) 545-2019 nature.org/HawaiiPalmyra

May 2, 2022

To: Division of Aquatic Resources 1151 Punchbowl Street Room 330 Honolulu, HI 96813

From:

The Nature Conservancy, Hawai'i Island Office PO Box 1056 Kamuela, HI 96743

Re: Support for Miloli'i Community-Based Subsistence Fishing Area Rules

Aloha Division of Aquatic Resources Administrator and Staff,

The Nature Conservancy (TNC) supports the proposed fisheries rules for the Miloli'i Community-Based Subsistence Fishing Area (CBSFA) and encourages the State Board of Land and Natural Resources (BLNR) to approve the CBSFA rules package.

The 'ohana of Miloli'i and the surrounding areas rely upon fishing and gathering of marine resources for their subsistence and well-being. The health and resilience of the fishery is integral to ensuring that subsistence, cultural, and religious practices continue for current and future generations. The Miloli'i community, which includes the local non-profit Kalanihale, has completed a thoughtful process to thoroughly deliberate fisheries rules that are based on local knowledge of cultural practices and address current threats to maintaining a sustainable fishery for the perpetuation of their traditional fishery practices. They have diligently worked with the Division of Aquatic Resources (DAR) throughout the process and done extensive outreach on their proposal as documented in their administrative record. The Miloli'i CBSFA rules will help the State achieve its 30x30 Holomua Initiative to ensure effective place-based management of Hawai'i's nearshore marine resources.

The Kalanihale Foundation, on behalf of the kama āina families and kūpuna of Miloli Kapalilua, South Kona, have worked together for more than 10 years to mālama their subsistence resources. Since 2010, after observing dramatic declines in marine life, Kalanihale has been actively working to restore abundance by caring for, studying, and managing the cultural and marine resources within the CBSFA. In 2005, the Miloli CBSFA was designated through Act 232. The community submitted their CBSFA rule proposal to the State for your consideration and to engage in the formal rulemaking process following years of meetings, field trips, lawai a (fishing) camps, presentations, and other individual and group outreach efforts. Through these extensive outreach efforts, the community received significant input and feedback on their CBSFA rule proposal, resulting in extensive revisions and compromises.

BOARD OF TRUSTEES

Duke E. Ah Moo Paul D. Alston (Chair) Kris Billeter Dr. C. Tana Burkert Anne S. Carter Richard A. Cooke III Kaʻiulani de Silva Dave Eadie Matt Emerson Hon. Judith Epstein Dr. Alan M. Friedlander Benjy Garfinkle Sean A. Hehir Brett MacNaughton Kathy M. Matsui Janet Montag Alicia Moy Bradley E. Smith Julie Smolinski Peter K. Tomozawa Richard N. Zwern

The Nature Conservancy, Hawai'i and Palmyra May 2, 2022 Page 2

The Nature Conservancy has worked closely and collaboratively with the Miloli'i community over the past two decades through ecological monitoring, Lawai'a camps, Makai Watch trainings, and the Kai Kuleana community network. The proposed CBSFA includes bag limits that protect species vulnerable to overharvest, size limits that increase fisheries replenishment, a network of spatial management areas (pu'uhonua) that the community has developed to benefit adjacent areas through spillover, seasonal spawning closures to prevent catch during reproductive periods, and gear and aquarium fishing restrictions to perpetuate traditional fishing practices and reduce harvest pressure on ecologically and culturally important species. We recognize that there have been some changes to the original rules that were proposed by the community to DLNR and encourage the interested parties to find a collaborative solution to ensure the final rules reflect the values, intentions, and goals of both the State and community to build a sustainable subsistence fishery that can support generations to come.

The Nature Conservancy would like to applaud the Miloli'i community's thoughtful approach to place-based management to ensure the marine resources are well cared for and thriving. We would also like to thank DAR staff for their support of and engagement in the Miloli'i rule-making process. We encourage the BLNR to approve the Miloli'i CBSFA rules package to help achieve the 30x30 Holomua Initiative goals and encourage other communities across the state to develop place-based fisheries rules to build local food security, perpetuate traditional practices, and help ensure the long-term ecological health of our islands' marine resources.

Sincerely,

Rebecca Most

Hawai'i Island Marine Program Manager

where Mass.

The Nature Conservancy, Hawai'i and Palmyra Program

The Nature Conservancy, Hawaiʻi and Palmyra May 2, 2022 Page 3

MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA, HAWAI'I HAWAII ADMINISTRATIVE RULES 13-60.10 ANALYSIS OF PUBLIC HEARINGS AND TESTIMONY

DAVID Y. IGE GOVERNOR OF





STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF AQUATIC RESOURCES 1151 PUNCHBOWL STREET, ROOM 330 HONOLULU, HAWAII 96813 SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

ANALYSIS OF PUBLIC HEARINGS AND TESTIMONY ON PROPOSED NEW RULES FOR THE MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA, HAWAI'I

I. BACKGROUND

On April 20, 2022, the Division of Aquatic Resources (DAR) held two public hearings, one online public hearing via Zoom and one in-person public hearing at the Miloli'i Beach Park Pavilion, to receive public comments and testimony on the proposed adoption of new rules for the Miloli'i Community-Based Subsistence Fishing Area (CBSFA), Hawai'i. DAR also accepted written (email and letter) testimony from March 20, 2022 to May 6, 2022. DAR received 81 oral testimonies and 62 written testimonies from 102 individuals and 16 organizations. All testimony was in support of the CBSFA designation however, some oral and written testimony provided recommendations for amendments to the rules, specifically to amend the Pāku'iku'i Rest Area boundaries, the pāku'iku'i bag limit, the definitions section to add a definition of "lay net," and the size and scope of the CBSFA. Further, one testimony suggested we consult with kūpuna (elders) when drafting the rules. There was no testimony in opposition to the CBSFA designation. The following analysis summarizes the primary reasons offered in support of the rules, describes the recommended amendments to portions of the rules, and explains DAR's response to the recommendations.

II. TESTIMONY IN SUPPORT OF CBSFA DESIGNATION

All testimony supported the designation and intent of the CBSFA. Members of the Miloli'i community emphasized the importance of recognizing their kuleana (responsibility) as konohiki (generational stewards) in order to ensure that the traditional and customary native Hawaiian practices of kilo (observational data collection), mālama ko'a and hānai 'ōpelu (nurturing and training specific 'ōpelu populations for harvest), and lawai'a pono (sustainable fishing) are preserved and passed down to future generations as those same traditions and practices were passed down from their kūpuna (ancestors). There were several testimonies that came from three generations of the same family and there were several testifiers who could trace their mo'okū'auhau (genealogy) to the South Kona coast back to time immemorial. Miloli'i community members testified that the rules are well overdue and are in response to a steep decline in the resources that they rely on daily for subsistence. Common themes among all the testimony received from the Miloli'i community was that of aloha for their ancestral homelands of Kapalilua as well as urgency to protect the rich cultural fishing heritage of Miloli'i.

Other testimony was collected from individuals from Hawai'i and as far as the east coast of the United States. Numerous marine biologists and other scientists who have worked with the

community testified to the noticeable decline in ocean resources that were once abundant. Additionally there was testimony on the success of the Hā'ena CBSFA as justification for the Miloli'i CBSFA and as proof that the CBSFA model works. Several testimonies acknowledged the hard work that the community has invested in the sustainable management of their coastal resources through their efforts in developing the Miloli'i CBSFA Marine Management Plan (Management Plan). Several testimonies also recognized Miloli'i as a leader among other likeminded communities who have looked to Miloli'i for decades as an example of successful community-driven management. Individuals who have worked with various members of the Miloli'i community in developing place-based management initiatives testified to the determination, perseverance, and dedication of the Miloli'i community to perpetuating and preserving their traditional and cultural native Hawaiian fishing practices.

III. ORGANIZATIONAL SUPPORT

The following 16 organizations provided both oral and/or written testimony in support of the CBSFA designation:

- God's Country Waimanalo
- Harold K.L. Castle Foundation
- Hawai'i Conservation Alliance
- Hawai'i Marine Education and Research Center
- Hawai'i Wildlife Fund
- Hui Maka'āinana o Makana
- Ka 'Ohana O Honu'apo
- Kai Kuleana Network (West Hawai'i Island)

- Kailapa Community Association Board
- Kaʻūpūlehu Marine Life Advisory Committee
- Kua'āina Ulu 'Auamo (KUA)
- Mālama Pūpūkea Waimea
- Moku o Manokalanipō, Kaua'i Council of the Association of Hawaiian Civic Clubs
- Office of Hawaiian Affairs (OHA)
- Sierra Club of Hawai'i
- The Nature Conservancy

IV. TESTIMONY IN SUPPORT WITH RECOMMENDATIONS

A. Pāku'iku'i Rest Area Boundaries and Pāku'iku'i Bag Limit

In summary, DAR has decided to:

- 1) Amend the boundaries of the Pāku'iku'i Rest Area to the original boundaries proposed in the Miloli'i Community-Based Subsistence Fishing Area Marine Management Plan;
- 2) Amend the pāku'iku'i bag limit from one per person per day to zero per person per day until June 30, 2027; Then to five per person per day thereafter; and
- 3) Develop separate regional rules to address DAR's concerns for pāku'iku'i for all of West Hawai'i (and potentially statewide).

59 testimonies from individuals and organizations either directly recommended or deferred to the community's recommendation of amending the Pāku'iku'i Rest Area to reflect the original boundaries proposed by the community and reducing the pāku'iku'i bag limit to zero for a period of five years and then five per person per day thereafter (for the entire CBSFA outside of the Pāku'iku'i Rest Area). The community stands by the original boundaries of the Pāku'iku'i Rest Area from Makahiki Point, Pāpā to Kapulau Point, Honomalino. DAR supports this amendment based on the overwhelming testimony by the community; Also, because Honomalino Bay is already designated as a Pu'uhonua subzone, the overlapping of the

Pāku'iku'i Rest Area with the Pu'uhonua Honomalino could cause confusion for residents and visitors fishing and diving in the area.

The original proposal from the community included a bag limit of five pāku'iku'i per person per day (outside of the Pāku'iku'i Rest Area). However, due to concerns that a bag limit of five pāku'iku'i per person per day may not be sustainable for the population and would not achieve the intended result of sustainably managing the resource, the BLNR amended the bag limit to one pāku'iku'i per person per day. Upon consultation with the kupuna fisher community of Miloli'i in collaboration with Mohala Nā Konohiki,¹ the community-led traditional stewardship training program, the community decided to recommend, through oral and written testimony, a complete no-take of pāku'iku'i for the entire CBSFA for five years in order to eliminate the stress on pāku'iku'i within the CBSFA boundaries. The five-year no-take period will allow for more life history data to be gathered on the species in order to make more informed decisions on open/closed seasons and/or bag limits for pāku'iku'i as well as give the species time to rest and rebuild abundance. Then, after the five-year no-take period, the originally proposed bag limit of five per person per day would go into effect (along with the no-take Pāku'iku'i Rest Area with the originally proposed boundaries as described in the paragraph above).

DAR acknowledges the community's sacrifice in making any take of pāku'iku'i kapu loa (strictly prohibited) within the CBSFA for five years as pāku'iku'i is one of the community's most prized food fishes. DAR also acknowledges the efforts of the community as a co-manager with DAR in spearheading the collection of important life-history data (including spawning seasonality) to make informed decisions in the management of the coastal resources within the CBSFA. In response to the recommendations by the community, DAR supports the five-year no-take period, but is not convinced that a bag limit of five pāku'iku'i per person per day after the five-year no-take period will achieve the goal of the rules to sustainably manage pāku'iku'i for future generations. However, DAR's concerns go beyond the Miloli'i CBSFA to the entire West Hawai'i (and even the whole state). Therefore, DAR believes that developing regional or statewide rules for pāku'iku'i, potentially utilizing the adaptive management process outlined in HRS § 187A-5(b),² is a more appropriate avenue to address its concerns. That way the current rules can move forward as proposed by the Miloli'i community while DAR decides how best to address the regional decline in pāku'iku'i. DAR's efforts will include engaging in monitoring, supporting life history research, developing a management plan for pāku'iku'i, and drafting rules as determined to be appropriate from the results of the monitoring and as outlined in the management plan.

B. Definition of "Lay Net"

In summary, DAR has decided to:

1) Add definitions for "lay net" and "lay net fishing."

One testimony was in full support of the CBSFA designation, but recommended adding a definition of "lay net" to the rules for clarity. The rules package in its version that was brought to public hearing provided rules reinforcing the statewide prohibition on the use of lay nets at night. However, the rules did not provide a definition for "lay net" or "lay net fishing." For clarity and consistency with the definitions in HAR chapter 13-60.4, West Hawai'i Regional

¹ Mohala Nā Konohiki website: https://storymaps.arcgis.com/stories/d33202f1516346f8beb6d6efa50e9ba5

² HRS § 187A-5(b)(1) states: "Notwithstanding any law to the contrary, the board may adopt, amend, or repeal any rule pertaining to bag limits, size limits, open or closed fishing seasons, or gear restrictions by formal board action at a publicly noticed meeting; provided that [t]he board finds that the timely adoption, amendment, or repeal of the rule is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions[.]"

Fishery Management Area, Hawai'i, DAR has decided to include the definitions of "lay net" and "lay net fishing" from HAR chapter 13-60.4 into the definitions section of these rules.

C. Reducing Size and Scope of the CBSFA

In summary, DAR has decided to:

1) Keep the size and scope of the CBSFA as proposed.

Based on observations by her husband who is an 'ōpelu fisher, one written testimony recommended 1) reducing the 'ōpelu closed spawning season because most 'ōpelu spawning occurs between May-July and 2) reducing the depth of the CBSFA from 100 fathoms to 50 fathoms because small 'ōpelu are found between the shoreline and the 50 fathom depth, while the larger 'ōpelu are found between 50 and 100 fathoms. Upon further review, DAR has decided to move forward with the Miloli'i CBSFA proposal without incorporating these recommendations for the following reasons:

- 1) "The proposed closed season was traditionally practiced by villages along the Kona coast and is believed by local fishermen to have contributed to the maintenance of the stocks;" and
- 2) 'Ōpelu is a vital resource for the Miloli'i community for both subsistence and commercial purposes and, as a result, management of 'ōpelu as an important community resource has informed every decision the community has made in the development of the Miloli'i CBSFA Marine Management Plan, including the use of the 100-fathom depth contour as the seaward boundary of the CBSFA.⁴

One oral testimony received at the online Zoom public hearing recommended reducing the depth of the CBSFA from 100 fathoms to 50 meters for consistency with the Holomua: Marine 30x30 Initiative. For the same reason listed above regarding the use of the 100-fathom depth contour as the seaward boundary of the CBSFA, DAR has decided to move forward with the Miloli'i CBSFA proposal without incorporating this recommendation.

Both testimonies listed above also recommended reducing the length of the CBSFA and reducing the number of subzones because of concerns that the current rules are confusing and difficult to enforce. Upon further review, DAR has decided to move forward with the Miloli'i CBSFA proposal without incorporating these recommendations for the following reasons:

1) The size of the Miloli'i CBSFA accurately reflects the area that was traditionally managed and fished by the lineal descendants that currently reside in Miloli'i;⁶

³ Miloli'i Community-Based Subsistence Fishing Area Marine Management Plan (Management Plan), Updated

^{02/08/22,} at p. 39, https://www.kalanihale.com/files/ugd/d88e72_1ca52861098d49b68c9934dfc604db33.pdf.
4 "The marine and nearshore environments are interwoven into the fabric of the Miloli'i community and influence daily activity in the village. As a result, the health of the ocean is directly related to the health of the people. In particular, 'ōpelu fishing and collection of nearshore invertebrates to include 'opihi and wana are a deep part of the culture and identity of Miloli'i. The kanaka testimonies revealed key indicators that support the need to better manage Miloli'i's marine resources and as a result justify the development and adoption of this management plan." Management Plan, at p. 15 (see footnote 3 for link to pdf).

⁵ "In an effort to restore abundance to our nearshore environment (from the high tide mark out to a depth of 160 feet), the Department of Land and Natural Resources (DLNR) is committed to achieving the marine component of [the Holomua: Marine 30x30 Initiative] to effectively manage Hawai'i's nearshore waters with 30% established as marine management areas by 2030." https://dlnr.hawaii.gov/dar/files/2020/04/Holomua_Marine_30x30_April.pdf. ⁶ "The proposed boundaries for the Miloli'i CBSFA are from Pa'akai Point, Kīpāhoehoe in the north to Kaunā Point, Manukā in the south approximately 14.98 miles or 12.48 sq. Miles and to a depth of 100 fathoms. The proposed boundaries cover the traditional, nearshore, fishing area of the Miloli'i community and includes all reefs and 'ōpelu

- 2) The boundaries of the subzones were specifically drawn using commonly, well-known landmarks and are easily identifiable from the ocean;⁷
- 3) Objective 6 of the Miloli'i CBSFA Marine Management Plan specifically addresses "increased compliance with the CBSFA regulations and decreased violations as a result of targeted outreach and enforcement action when needed." Specifically, the community has developed extensive educational and outreach programs to encourage compliance with the CBSFA rules as well as established a dedicated Makai Watch Miloli'i team that frequently engages in DLNR trainings and works closely with the Division of Conservation and Resources Enforcement (DOCARE) to ensure appropriate enforcement actions are taken when necessary.

D. Consultation with Kūpuna

DAR has decided that:

1) Adequate opportunity was given to all members of the community (especially to kūpuna) to provide input into the Miloli'i CBSFA rules package.

One written testimony suggested that the Miloli'i community did not adequately consult with kūpuna (elders) when developing the rules and specifically mentioned that the 'opihi notake areas would force kūpuna to go into unsafe harvesting territory to get 'opihi. However, despite having numerous kupuna testifiers provide both oral and written testimony, there was no other testimony that brought this up as an issue. DAR has worked closely with the community throughout this entire process and is aware that the Miloli'i community consults with the kūpuna within the community before making any management decisions. Therefore, DAR is confident that anyone who opposes the 'opihi rules would have had adequate opportunity to voice their concerns to both the community when the rules were first developed and to DAR throughout the Chapter 91 Rulemaking process.

ko'a which are important for subsistence fishing and to the cultural practices of the community." Management Plan, at p. 35 (see footnote 3 for link to pdf).

⁷ The place names used in the boundaries were thoroughly vetted through interviews with local fishers to ensure that they are still relevant and currently used. The place names were also cross-referenced using primary and secondary sources. "Information on the place names come from various oral histories and accounts provided by Miloli'i 'ohana, Ulukau [the Hawaiian Electronic Library], [Mary Kawena] Pukui, [Henry H.] Parker, and Place Names of Hawai'i." Management Plan, at p. 7-8 (see footnote 3 for link to pdf).

⁸ Management Plan, at p. 24-25 (see footnote 3 for link to pdf).

⁹ "[Compliance] will be [achieved] through several means including several events and educational opportunities covered under Objective Three and through targeted programs like Makai Watch. . . Additionally, there will be situations where people will choose not to comply with the regulations and enforcement will be needed. In these cases, the community will work directly with the Division of Conservation and Resources Enforcement (DOCARE) to encourage enforcement, surveillance, and action." Id.

MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA, HAWAI'I HAWAII ADMINISTRATIVE RULES 13-60.10 DRAFT ADMINISTRATIVE RULES (RAMSEYER FORMAT)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Chapter 13-60.10 Hawaii Administrative Rules

(Date of adoption)

1. Chapter 13-60.10, Hawaii Administrative Rules, entitled "Miloli'i Community-Based Subsistence Fishing Area, Hawai'i", is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART II MARINE FISHERIES MANAGEMENT AREAS

CHAPTER 60.10

MILOLI'I COMMUNITY-BASED SUBSISTENCE FISHING AREA, HAWAI'I

\$13-60.10-1	Purpose
\$13-60.10-2	Definitions
\$13-60.10-3	Boundaries
\$13-60.10-4	Permitted and prohibited activities
§13-60.10-5	Activities prohibited within selected
	areas
\$13-60.10-6	Transit through Miloli'i CBSFA with restricted gear and species
\$13-60.10-7	Penalty
\$13-60.10-8	Asset forfeiture
\$13-60.10-9	Severability

§13-60.10-1 Purpose. The purpose of this chapter regarding the Miloli'i Community-Based Subsistence Fishing Area is to:

- (1) Sustainably support the consumptive needs of communities along the southwest coast of Hawai'i Island through culturally-rooted, community-based fisheries management;
- (2) Ensure the sustainability of nearshore ocean resources in the area through effective management practices, including the establishment of limits on the harvest of aquatic life;
- (3) Recognize and protect customary and traditional native Hawaiian fishing practices that are exercised for subsistence, cultural, and religious purposes in the area;
- (4) Facilitate the substantive involvement of the community in fisheries resource management decisions for the area through dialogue with community residents and resource users;
- (5) Establish the Pu'uhonua Pāpā, Pu'uhonua Honomalino, Pu'uhonua Kapu'a, and Pu'uhonua Manukā to reduce fishing pressure in these areas in order to replenish populations of important fish species while also allowing for sustainable harvest;
- (6) Establish the Pāku'iku'i Rest Area for the preservation and protection of this nursery habitat for pāku'iku'i as an important food fish for community families;
- (7) Establish Puakai'a Miloli'i as an ocean classroom where the community can continue to impart intergenerational knowledge of traditional cultural ocean practices to future generations while maintaining crucial ocean entrypoints for the community; and

(8) Establish the 'Opelu Traditional Management Zone to ensure local 'Opelu fish stocks are maintained according to traditional practices as an essential resource for the Miloli'i community and to honor the rich heritage and generational practice of 'Opelu fishing in Miloli'i. [Eff]
(Auth: HRS §§188-22.6, 188-22.7, 188-53, 190-3) (Imp: HRS §§188-22.6, 188-22.7 188-53, 190-3, Haw. Const. art. XI, §6)

§13-60.10-2 Definitions. As used in this chapter, unless otherwise provided:

"'A'ama crab" means a black, edible intertidal crab species that runs over shore rocks, known as Grapsus tenuicrustatus or any recognized synonym.

"Akule" means any fish identified as Selar crumenophthalmus or other recognized synonyms. This fish is also known as pā'ā'ā, halalū, hahalalū, and big-eyed scad.

"'Ālinalina" means any limpet known as *Cellana* sandwicensis or any recognized synonym. 'Ālinalina are also known as yellow foot 'opihi.

"Aquarium fishing" means taking marine life for aquarium purposes.

"Aquarium purposes" means to hold marine life alive in a state of captivity, whether as pets, for scientific study, for public exhibition, for public display, or for sale for these purposes.

"Area" means the Miloli'i Community-Based Subsistence Fishing Area (Miloli'i CBSFA), as encompassed within the boundaries described in section 13-60.10-3(a).

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

"Diving" means any activity conducted in the water involving the use of a mask, goggles, or any other device that assists a person to see underwater while the person's face is submerged and can involve an underwater breathing apparatus. Diving includes both extractive and non-extractive activities, such as SCUBA diving, free diving, and snorkeling.

"Fish" means any species of marine life with a backbone, gills, and with limbs that are fins, if any.

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

"Hook-and-line" means a fishing line to which one or more hooks or other tackle are attached. A hook-and-line may include a fishing rod or reel or both to cast and retrieve the line.

"Initial-phase uhu" means any uhu characterized by a dull red, brown, or gray body coloration and the absence of bright green or blue markings.

"Kō'ele" means any limpet known as *Cellana* talcosa or any recognized synonym. Kō'ele are also known as giant 'opihi, talc limpet, or turtle limpet.

"Kole" means any fish known as Ctenochaetus strigosus or any recognized synonym. Kole are also known as goldring surgeonfish or goldring bristletooth.

"Kūmū" means any fish known as Parupeneus porphyreus or any recognized synonym. Kūmū are also known as whitesaddle goatfish.

"Lay net" means a panel of net mesh that is suspended vertically in the water with the aid of a float line that supports the top edge of the net upward towards the water surface and a lead line that keeps the bottom edge of the net downward towards the ocean bottom.

"Lay net fishing" or to "lay net fish" means deploying or attempting to deploy a lay net in a set location and in an open configuration, and retrieving the lay net from the same location after a certain time period has passed. This fishing method is also known as set netting, cross netting, pa'ipa'i, and moemoe netting. This term does not apply to the use of a lay net to completely encircle a pre-identified school of fish, where the net is constantly attended at all times while in the water, such as in the practice of surround netting.

"Limu" means marine algae, including any alga in the intertidal zone, commonly known as seaweed.

"Makaiauli" means any limpet known as *Cellana* exarata or any recognized synonym. Makaiauli are also known as black foot 'opihi or Hawaiian blackfoot.

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

"Moano kea" means any fish known as Parupeneus cyclostomus or any recognized synonym. Moano kea are also known as moano kali, moano ukali, moano ukali ulua, moana kali, blue goatfish, or goldsaddle goatfish.

"Night" means the period between sunset and the following sunrise.

"'Ōpelu" means any fish of the genus Decapterus.
'Ōpelu are also known as mackerel scad.

"'Opihi" means any mollusk of the genus *Cellana* or any recognized synonym. 'Opihi are also known as kō'ele, 'ālinalina, makaiauli, or limpets.

"Pāku'iku'i" means any fish known as Acanthurus achilles or any recognized synonym. Pāku'iku'i are also known as Achilles tang.

"Pole spear" means a spear consisting of a straight shaft terminating in up to three pointed prongs, and to which up to two elastic bands used to propel the spear remain attached when the spear is

deployed. A pole spear is deployed solely by hand and without the aid of any trigger mechanism as characteristic of a speargun or hinge gun.

"Scoop net" means a net consisting of a bag of mesh material attached to a frame to hold the bag open, and a handle. The net is small enough to use with one hand by one person. This gear is also known as a hand net.

"Spear" means any device or implement which is designed or used for impaling marine life. Spears may include but are not limited to spear gun shafts, arbaletes, arrows, bolts, Hawaiian slings, tridents, or three-prong spears. A dive knife is not considered to be a spear.

"State" means the state of Hawai'i.

"Subsistence" means the customary and traditional native Hawaiian uses of renewable ocean resources for direct personal or family consumption or sharing.

"Take" means to fish for, catch, injure, kill, remove, capture, confine, or harvest, or to attempt to fish for, catch, injure, kill, remove, capture, confine, or harvest.

"Terminal-phase uhu" means any uhu characterized by the presence of bright green or blue markings or a predominantly green or blue body coloration, often with bright pink, orange, or yellow patches.

"Throw net" means a circular net with a weighted outer perimeter designed to be deployed by manually casting or throwing the net over fish or other aquatic life. This gear is also known as a cast net.

"Uhu" means any fish belonging to the family Scaridae or any recognized synonyms. Uhu is a general term for fish with large scales and fused, beak-like teeth, known as parrotfish.

"Uhu 'ahu'ula" means any fish known as Chlorurus perspicillatus or any recognized synonym. Uhu 'ahu'ula are also known as spectacled parrotfish. The terminal phase of these fish is known as uhu uliuli.

"Uhu 'ele'ele" means any Scarus rubroviolaceus which has reached its terminal phase, indicated by a change in coloration from brownish-red and yellowishgray, to green and blue. A predominantly green or

blue-green body color and a green beak on a specimen of *Scarus rubroviolaceus* is prima facie evidence that the specimen is an uhu 'ele'ele. Both uhu 'ele'ele and uhu pālukaluka are known as redlip or ember parrotfish.

"Uhu pālukaluka" means any fish known as Scarus rubroviolaceus or any recognized synonym. Uhu pālukaluka are also known as redlip or ember parrotfish. The terminal phase of these fish is known as uhu 'ele'ele.

"Uhu uliuli" means any Chlorurus perspicillatus which has reached its terminal phase, indicated by a change in coloration from a grayish brown body with a broad white band at the base of the tail, to a blue green body with a dark band across the top of the snout. A predominantly blue-green body color and the lack of a white tail band on a specimen of Chlorurus perspicillatus is prima facie evidence that the specimen is an uhu uliuli. Both uhu uliuli and uhu 'ahu'ula are known as spectacled parrotfish.

"Ula" means a spiny lobster in the decapod crustacean family Palinuridae. These animals are also known as lobster, Hawaiian spiny lobster, red lobster, or green lobster.

"'Ū'ū" means any fish of the genus *Myripristis*.
'Ū'ū are also known as soldierfish or menpachi.

"Vessel" means any craft used or capable of being used as a means of transportation on or in the water.

"Weke 'ula" means any fish known as Mulloidichthys vanicolensis or any recognized synonym. Weke 'ula are also known as yellowfin goatfish or red weke. [Eff] (Auth: HRS \$\$187A-5, 188-22.6, 188-22.7, 188-53, 190-3) (Imp: HRS \$\$187A-5, 188-22.6, 188-22.7, 188-53, 190-3)

\$13-60.10-3 Boundaries. (a) The Miloli'i Community-Based Subsistence Fishing Area (Miloli'i CBSFA) includes that portion of the southwestern coast of Hawai'i Island consisting of all state waters and submerged lands bounded by a shoreline boundary

consisting of a line drawn along the highwater mark at the shoreline between Pa'akai Point at Kīpāhoehoe in the north at 19.250944°N, -155.899417°W (Point A) to Kaunā in the south at 19.033639°N, -155.878791°W (Point M); a north boundary consisting of a straight line that extends seaward from the shoreline boundary at Pa'akai Point at Point A to a depth of 100 fathoms at 19.250943°N, -155.912689°W (Point AA); a seaward boundary consisting of a line that follows the 100fathom depth contour along the southwest coast of Hawai'i Island from Point AA in the north to 19.027376°N, -155.883067°W (Point MM) in the south; and a south boundary consisting of a straight line that connects the shoreline boundary at Kaunā (Point M) to the seaward boundary at Point MM; as shown on Exhibit A entitled "Map of the Miloli'i Community-Based Subsistence Fishing Area, Hawai'i", dated 1/31/22, located at the end of this chapter.

- (b) The following sub-zones are established within the Miloli'i CBSFA:
 - (1) The "'Opelu Traditional Management Zone", which includes all state waters and submerged lands bounded by the shoreline boundary of the Miloli'i CBSFA from Nāpōhakuloloa (also known as 2-Stone) in the north at 19.234444°N, -155.901000°W (Point B) to Kāki'o Point (also known as Kaupō) in the south at 19.134422°N, -155.917339°W (Point J); the seaward boundary of the Miloli'i CBSFA from 19.234176°N, -155.911939°W (Point BB) in the north to 19.134699°N, -155.929158°W (Point JJ) in the south; a straight line in the north from Nāpōhakuloloa at Point B to the seaward boundary of the Miloli'i CBSFA at Point BB; and a straight line in the south from Kāki'o Point at Point J to the seaward boundary of the Miloli'i CBSFA at Point JJ; as shown on Exhibit B entitled "Map of the 'Opelu Traditional Management Zone", dated 1/31/22, located at the end of this chapter.

- (2) The "Pu'uhonua Pāpā", which includes all state waters and submerged lands bounded by the shoreline boundary of the Miloli'i CBSFA from Lae o Kamimi in Pāpā Bay at 19.226028°N, -155.902694°W (Point C) in the north to Makahiki Point at 19.202940°N, -155.906161°W (Point D) in the south; the seaward boundary of the Miloli'i CBSFA from 19.226079°N, -155.911577°W (Point CC) in the north to 19.203068°N, -155.914627°W (Point DD) in the south; a straight line in the north from Lae o Kamimi at Point C to the seaward boundary of the Miloli'i CBSFA at Point CC; and a straight line in the south from Makahiki Point at Point D to the seaward boundary of the Miloli'i CBSFA at Point DD; as shown on inset 2 of Exhibit C entitled "Map of Miloli'i CBSFA Pu'uhonua Areas", dated 1/31/22, located at the end of this chapter.
- (3) The "Pāku'iku'i Rest Area", which includes all state waters and submerged lands bounded by the shoreline boundary of the Miloli'i CBSFA from Makahiki Point at Point D in the north to Kapulau (also known as Honomalino Point) at 19.172940°N, -155.908801°W (Point G) in the south; the seaward boundary of the Miloli'i CBSFA from Point DD in the north to 19.176530°N, -155.926281°W (Point GG) in the south; a straight line in the north from Makahiki Point at Point D to the seaward boundary of the Miloli'i CBSFA at Point DD; and a straight line in the south from Honomalino Point at Point G to the seaward boundary of the Miloli'i CBSFA at Point GG; as shown on Exhibit D entitled "Map of the Pāku'iku'i Rest Area and Puakai'a Miloli'i", dated 1/31/22, located at the end of this chapter.
 - (4) "Puakai'a Miloli'i", which includes all state waters and submerged lands bounded by the shoreline boundary of the Miloli'i CBSFA

from Kapukawa'aiki (also known as the Miloli'i Lighthouse) at 19.187033°N, -155.908020°W (Point E) in the north to Lae Loa at 19.181003°N, -155.908853°W (Point F) in the south; the seaward boundary of the Miloli'i CBSFA from 19.187989°N, -155.918099°W (Point EE) in the north to 19.183264°N, -155.920992°W (Point FF) in the south; a straight line in the north from Kapukawa'aiki at Point E to the seaward boundary of the Miloli'i CBSFA at Point EE; and a straight line in the south from Lae Loa Point at Point F to the seaward boundary of the Miloli'i CBSFA at Point FF; as shown on Exhibit D entitled "Map of the Pāku'iku'i Rest Area and Puakai'a Miloli'i", dated 1/31/22, located at the end of this chapter.

- (5) The "Pu'uhonua Honomalino", which includes all state waters and submerged lands bounded by the shoreline boundary of the Miloli'i CBSFA from Kapulau (also known as Honomalino Point) at Point G in the north to Pūke'oke'o (also known as Pōhaku Ke'oke'o) at 19.161944°N, -155.912903°W (Point H) in the south; the seaward boundary of the Miloli'i CBSFA from Point GG in the north to 19.163768°N, -155.929541°W (Point HH) in the south; a straight line in the north from Kapulau at Point G to the seaward boundary of the Miloli'i CBSFA at Point GG; and a straight line in the south from Pūke'oke'o at Point H to the seaward boundary of the Miloli'i CBSFA at Point HH; as shown on inset 1 of Exhibit C entitled "Map of Miloli'i CBSFA Pu'uhonua Areas", dated 1/31/22, located at the end of this chapter.
- (6) The "Pu'uhonua Kapu'a", which includes all state waters and submerged lands bounded by the shoreline boundary of the Miloli'i CBSFA from Kalapili (Okoe Bay) at 19.147823°N, -155.910996°W (Point I) in the north to Kāki'o Point (also known as Kaupō) at Point

J in the south; the seaward boundary of the Miloli'i CBSFA from 19.149582°N,
-155.929769°W (Point II) in the north to Point JJ in the south; a straight line in the north from Kalapili at Point I to the seaward boundary of the Miloli'i CBSFA at Point II; and a straight line in the south from Kāki'o Point at Point J to the seaward boundary of the Miloli'i CBSFA at Point JJ; as shown on inset 1 of Exhibit C entitled "Map of Miloli'i CBSFA Pu'uhonua Areas", dated 1/31/22, located at the end of this chapter.

- (7) The "Pu'uhonua Manukā", which includes all state waters and submerged lands bounded by the shoreline boundary of the Miloli'i CBSFA from Kamoi Point (north point of Manukā Bay) at 19.078090°N, -155.905953°W (Point K) to the south point of Manuka Bay at 19.075940°N, -155.900410°W (Point L); the seaward boundary of the Miloli'i CBSFA from 19.074411°N, -155.912682°W (Point KK) in the north to 19.069717°N, -155.909436°W (Point LL) in the south; a straight line from Kamoi Point at Point K to the seaward boundary of the Miloli'i CBSFA at Point KK; and a straight line from the south point of Manukā Bay at Point L to the seaward boundary of the Miloli'i CBSFA at Point LL; as shown on inset 3 of Exhibit C entitled "Map of Miloli'i CBSFA Pu'uhonua Areas", dated 1/31/22, located at the end of this chapter.
- (c) For the purposes of this chapter, the shoreline shall be determined by the upper reaches of the wash of the waves on shore. Should there be a stream or river flowing into the ocean, the shoreline shall be determined by an imaginary straight line drawn between the upper reaches of the wash of the waves on either side of the stream or river. [Eff [Auth: HRS §\$188-22.6, 188-22.7, 188-53, 190-3) (Imp: HRS §\$187A-1.5, 188-22.6, 188-22.7, 190-3)

§13-60.10-4 Permitted and prohibited activities.

- (a) Nothing in this chapter shall be construed as abridging traditional and customary native Hawaiian rights or as allowing within the Miloli'i CBSFA any activity or fishing gear otherwise prohibited by law or rules adopted by the department of land and natural resources or any other department of the State.
- (b) It is unlawful for any person to engage in the act of aquarium fishing or to take marine life for aquarium purposes within the Area.
- (c) Except as provided in section 5, the following species-specific restrictions apply within the Miloli'i CBSFA:
 - (1) It is unlawful to take or possess any female 'a'ama crab with eggs.
 - (2) It is unlawful to take or possess:
 - (A) Any kole during the months of March through June;
 - (B) More than twenty kole per person per day; or
 - (C) Any kole less than five inches in length.
 - (3) It is unlawful to take or possess any kō'ele.
 - (4) It is unlawful to take or possess more makaiauli and 'ālinalina (with shell attached) than can fit in a one-gallon size bag per person per day.
 - (5) At any time before July 1, 2027, it is unlawful to take or possess any pāku'iku'i.
 - (6) Notwithstanding any other more restrictive law applicable to the taking of pāku'iku'i, at any time on or after July 1, 2027, it is unlawful to take or possess:
 - (A) More than five pāku'iku'i per person per day; or
 - (B) Any pāku'iku'i less than five inches in length.
 - (7) It is unlawful to:

- (A) Spear any uhu at night using any gear type;
- (B) Take or possess any uhu 'ele'ele or any uhu uliuli at any time;
- (C) Take or possess any uhu 'ahu'ula or uhu pālukaluka during the months of March through May;
- (D) Take or possess any uhu 'ahu'ula or uhu pālukaluka less than fourteen inches in length or more than twenty inches in length;
- (E) Take or possess more than one uhu 'ahu'ula or uhu pālukaluka (one fish total) per person per day during the months of June through February; or
- (F) Take or possess more than three total of any other uhu per person per day, provided that only one may be a terminal-phase uhu.
- (8) It is unlawful to take or possess more than two ula per person per day.
- (9) It is unlawful to take or possess any 'ū'ū from April through June. [Eff] (Auth: HRS §\$187A-5, 188-22.6, 188-22.7, 188-53, 190-3) (Imp: HRS §\$187A-5, 188-22.6, 188-22.7, 188-53, 190-3)

\$13-60.10-5 Activities prohibited within selected areas. (a) While within the 'Ōpelu Traditional Management Zone as described in section 13-60.10-3(b)(1), it is unlawful to take any 'Ōpelu using any method other than hook-and-line fishing from February through August.

- (b) While within the four Pu'uhonua as described in section 13-60.10-3 (b), paragraphs -(2), -(5), -(6), and -(7), all fishing is prohibited except:
 - (1) Fishing from shore using throw net, scoop net, and hook-and-line fishing methods;
 - (2) Fishing from a vessel using hook-and-line fishing method;

- (3) Fishing using a pole spear; and
- (4) Fishing for akule using nets in compliance with chapters 13-60.4, 13-75, and 13-95.
- (c) While within the four Pu'uhonua as described in section 13-60.10-3 (b), paragraphs -(2), -(5), -(6), and -(7), it is unlawful to:
 - (1) Harvest any 'opihi; or
 - (2) Fish using any gear or method other than specifically allowed in section 5(b).
- (d) While within the Pāku'iku'i Rest Area, it is unlawful to take or possess any pāku'iku'i.
- (e) While within Puakai'a Miloli'i, it is unlawful to:
 - (1) Use or possess any spear except for a pole spear;
 - (2) Spear any uhu, pāku'iku'i, weke 'ula, moano kea, or 'ū'ū; or
 - (3) Fish using a lay net at night. [Eff] (Auth: HRS \$\$187A-5, 188-22.6, 188-22.7, 188-53, 190-3) (Imp: HRS \$\$187A-5, 188-22.6, 188-22.7, 188-53, 190-3)

§13-60.10-7 Penalty. (a) Any person who violates any provision of this chapter shall be subject to:

- (1) Administrative penalties as provided by section 187A-12.5, HRS;
- (2) Criminal penalties as provided by section 188-70, HRS; and
- (3) Any other penalty as provided by law.
- (b) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State. [Eff] (Auth: HRS §\$187A-5, 188-22.6, 188-22.7, 188-53, 190-3) (Imp: HRS §\$187A-5, 187A-12.5, 188-22.6, 188-22.7, 188-70, 190-5)

\$13-60.10-8 Asset forfeiture. Any equipment, article, instrument, aircraft, vehicle, vessel, business record, or natural resource used or taken in violation of this chapter, may be seized and subject to forfeiture as provided by section 199-7 and chapter 712A, HRS. [Eff] (Auth: HRS §190-3) (Imp: HRS §199-7, ch. 712A)

2. The adoption of chapter 13-60.10, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on ______, and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE Chairperson Board of Land and Natural Resources

APPROVED AS TO FORM:

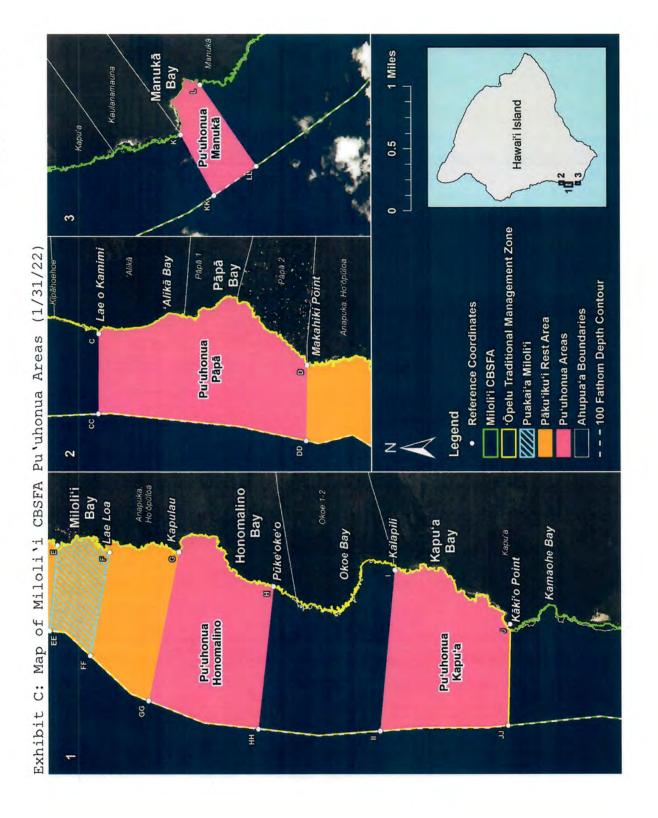
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Deputy Attorney General

Fishing Area, Hawai'i (1/31/22) 2 Miles Pa'akai Point, Kīpāhoehoe (North Boundary) Kipāhoehoe Nāpōhakuloloa 'Alikā CC Lae o Kamimi Pāpā 1 Pāpā Bay Pāpā 2 Makahiki Point Anapuka, Hoʻopūloa Miloli'i Bay **Honomalino Bay** Kapu'a Bay Hawai'i Island Kapua Kaulanamauna Legend Manukā Bay **Reference Coordinates** Manukā Miloli'i CBSFA 'Ōpelu Traditional Management Zone Puakai'a Miloli'i Kahuku Pāku'iku'i Rest Area Kaunā Point Pu'uhonua Areas (South Boundary) Ahupua'a Boundaries - - 100 Fathom Depth Contour

Exhibit A: Map of the Miloli'i Community-Based Subsistence

Kīpāhoehoe Legend вв Nāpōhakuloloa **Reference Coordinates** 'Ōpelu Traditional Management Zone Ahupua'a Boundaries Lae o Kamimi - - - 100 Fathom Depth Contour Pāpā Bay Papa 2 DD Makahiki Point-Anapuka, Hoʻopūloa Miloli'i Bay Honomalino Bay Pūke'oke'o Okoe Bay Hawai'i Island Kapu'a Bay 0.5 1 Miles JJ Kāki'o Point



(1/31/22)Legend **Reference Coordinates** Puakai'a Miloli'i Pāpā Bay Pāku'iku'i Rest Area Ahupua'a Boundaries - - - 100 Fathom Depth Contour DD Makahiki Point Kapukawa aiki Anapuka, Hoʻopuloa Miloli'i Bay E Lae Loa 0.25 0.5 Miles Honomalino Hawai'i Island Bay Pūke'oke'o

Exhibit D: Map of the Pāku'iku'i Rest Area and Puakai'a Miloli'i (1/31/22)

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Bouton Sarl, Digital Globa, Gao'Sya, Earlistar Gaographics, t USCA, USGS, AaroGRIC, 1614, and tha OlS Usar Sommunity Signature: DXK. MA

Email: david.sakoda@hawaii.gov