

STATE OF HAWAI‘I
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawai‘i 96813

December 8, 2022

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

Subject: Enforcement Action against Kimberly Brady for Alleged Stony Coral Damage Resulting from the March 24-25, 2021 *Blaze II* anchoring incident outside the Māla Wharf, Lāhainā, Maui.

Summary: This submittal requests the Board of Land and Natural Resources find that Kimberly Brady violated Hawai‘i Administrative Rules §13-95-70 by breaking and damaging approximately 38 specimens of stony coral when her vessel, *Blaze II*, anchored outside the Māla Wharf, Lāhainā, Maui on March 24 and 25, 2021. To compensate the State of Hawai‘i for the damage to natural resources on public lands and the cost of investigation, DAR recommends that the Board approve the proposed administrative penalty of **\$30,950**.

Date of Incident: March 24-25, 2021

Against: Kimberly Brady
300 Ku‘ulei Road
Kailua, HI 96734

Location of Incident: Outside the Māla Wharf, Lāhainā, Maui (20° 53’ 21.2”N, 156° 41’ 22.2”W)

I. INTRODUCTION

On March 24, 2021, at approximately 20:00, Brent Hartwig [“HARTWIG”], owner of Pono Marine Mooring, observed a vessel, later identified as *Blaze II*, anchored in waters outside of the Māla Wharf, Lāhainā, Maui. On March 25, 2021, at approximately 08:00, HARTWIG went back to the Māla Wharf and observed *Blaze II* still anchored in the same spot. HARTWIG swam out to *Blaze II* to inspect for damage to the underlying coral reef. HARTWIG observed numerous damaged coral colonies in close proximity to *Blaze II*’s anchor and anchor chain. At approximately 10:10, HARTWIG called the Division of Land and Natural Resources’ [“DLNR”] Division of Conservation and Resources Enforcement [“DOCARE”] to report his observations of damaged coral. At approximately 11:00, HARTWIG observed *Blaze II* pull up anchor and leave the location. On March 26, 2021, at approximately 08:00, HARTWIG went back to the anchor location to take photos and videos of the damaged reef. On March 31, 2021, HARTWIG notified DLNR’s Division of Aquatic Resources [“DAR”] of the incident. On April 1, 2021, HARTWIG returned to the anchor location a third time to take additional photos and video. On April 07, 2021, a team from DAR Maui conducted a site inspection and documented the damage to the reef. The DAR team noted damage to 38 coral colonies. DAR’s Final Report is attached as **Exhibit A**¹ and DOCARE’s Final Report is attached as **Exhibit B**.²

DAR recommends that the Board of Land and Natural Resources [“Board”] approve the proposed administrative penalty of **\$30,950** to compensate the State of Hawaii for damage to natural resources on public lands and the cost of the investigation of the incident.

II. FACTUAL BACKGROUND

A. *Blaze II*

Blaze II is a 62-foot-long catamaran and contains a Rocna-55 anchor weighing approximately 121 pounds with an attached chain approximately one-half inch thick and approximately 200 feet long. At the time of the incident, *Blaze II* was owned and operated by Kimberly Brady [“BRADY”]. *Blaze II* is registered with the State of Hawai’i as HA-2103-CP. Vicky McCuaig, a DLNR Division of Boating and Ocean Recreation staff member at Lāhainā Small Boat Harbor, identified BRADY as the owner of *Blaze II* and provided DOCARE Officer Pomaikai Ibarra [“IBARRA”] with BRADY’s mooring permit documents.

B. The March 24, 2021 incident

On March 24, 2021, at approximately 20:00, HARTWIG observed from shore a vessel, later identified as *Blaze II*, anchored in the waters outside of Māla Wharf. The next morning, on March 25, 2021, at approximately 08:00, HARTWIG went back to Māla Wharf and again observed *Blaze II* anchored in the same spot. Being familiar with the area, HARTWIG suspected that *Blaze II* may have anchored on top of coral reef. HARTWIG swam out to the vessel,

¹ *Blaze II Anchor and Chain Habitat Damage Assessment, Field Investigative Report*, Department of Land and Natural Resources, Division of Aquatic Resources, April 2021.

² *Hawaii DLNR DOCARE: Incident Report Form – MA-21-00158*, March 24, 2021 (Updated: May 11, 2021).

recorded the GPS coordinates (20° 53' 21.2" N, 156° 41' 22.2" W), and took photos and video of damage to the underlying coral from the vessel's anchor and chain.³ HARTWIG identified *Blaze II* by the name marked on the side of the vessel.

After taking photos and video, HARTWIG called in a complaint to IBARRA and reported his observations of damaged coral. At approximately 11:00, HARTWIG observed *Blaze II* pull up its anchor and leave the location. On March 26, 2021, at approximately 08:00, HARTWIG returned to the location where *Blaze II* was originally anchored and took photos and a video. HARTWIG's video file from this day was inadvertently corrupted and is no longer retrievable. On March 31, 2021, HARTWIG notified DAR Maui of the incident.⁴ On April 1, 2021, HARTWIG returned to the anchor site for a third time to document coral damage with photographs and videos. This time HARTWIG was able to make a non-corrupted video recording of the damage left behind after *Blaze II* pulled anchor. On April 07, 2021, a team of biologists from DAR Maui inspected the damage site and documented extensive damage to 38 coral colonies believed to be caused by *Blaze II*'s anchor and anchor chain.

On April 08, 2021, IBARRA made contact with BRADY. IBARRA and BRADY planned to meet that day to conduct an interview, but BRADY was ultimately unable to attend the meeting, so they decided to meet the next day. On April 09, 2021, at approximately 13:00, IBARRA met BRADY. IBARRA began the meeting by verbally providing BRADY her Miranda warnings and physically gave her a written copy of the warning in the presence of another officer. At this time, BRADY stated that "her boat was at the scene on March 24, 2021 and she goes there with her vessel one to two times a week." BRADY asked questions regarding the case and for any proof DOCARE might have. BRADY declined to acknowledge understanding of her rights and continued to ask questions. Lt. Ronald Cahill directly asked BRADY if she would like an attorney and BRADY said yes. After BRADY stated that she wanted a lawyer, DOCARE stopped the interview and escorted BRADY out of the interview site.

D. Ecological assessments of habitat damage

On March 31, 2021, HARTWIG called DAR and reported his observations. On April 07, 2021, a team from DAR's Maui office conducted a site inspection and documented the damage to the reef.⁵ The DAR team noted damage to 38 coral colonies and surrounding live rock.⁶

DAR Maui located the anchor impact area by using GPS coordinates and identifiable features shown in the coral damage photos provided by HARTWIG. The team laid out transect tape for reference along the observable chain impact scar. The coral damage ran in a northeast direction along the width of the patch reef. The team laid thirty meters of transect tape starting from the anchor impact site and ending at the last clear evidence of an injured colony. The total area of the impact scar was measured to be 13.5 square meters (27 m x 0.5m). The two divers swam along

³ https://www.youtube.com/watch?v=GkH_tl2pinw

⁴ In DAR's Final Report, it states that DAR received an email complaint from HARTWIG on March 27, 2021. However, this email was forwarded to DAR from DOCARE. HARTWIG notified DAR Maui on March 31, 2021.

⁵ DAR Maui divers: Tatiana Martinez and Kristy Stone.

⁶ Although damaging live rock carries penalties under HAR § 13-95-71, DAR Maui did not document live rock damage in detail. DAR therefore will not be pursuing penalties under HAR § 13-95-71 against BRADY.

the transect tape from opposite ends identifying coral colonies to species level, measuring colony sizes, and photographing the evidence. A total of 38 colonies were identified as damaged, with 31 of them being an uncommon species *Porites solida* and the other seven belonging to the common coral species *Porites compressa*.

III. LEGAL AUTHORITY FOR ENFORCEMENT

A. Statutory and regulatory protection of stony coral

Stony corals are protected by Hawaii Administrative Rules (“HAR”) Title 13, Chapter 95, Section 70.

In relevant part, HAR § 13-95-70(a)(1) states that “it is unlawful for any person to take, break, or damage any stony coral.” The rules further define “stony coral” as “any invertebrate species belonging to the Order Scleractinia, characterized by having a hard, calcareous skeleton, that are native to the Hawaiian islands.” HAR § 13-95-1. “Break” means “to hit with, or to apply sufficient force to reduce to smaller pieces or to crack without actually separating into pieces.” *Id.* “Damage” means “to scrape, smother, poison, or otherwise cause any physical or physiological harm to the living portion of a stony coral or live rock.” *Id.*

B. Administrative fines authorized for violations of HAR Title 13, Chapter 95

Section 187A-12.5(c), Hawaii Revised Statutes [“HRS”] provides the administrative penalties for violations relating to aquatic resources,⁷ including HAR § 13-95-70 (stony coral), as follows:

- (1) For a first violation, a fine of not more than \$1,000;
- (2) For a second violation within five years of a previous violation, a fine of not more than \$2,000; and
- (3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$3,000.

Section 187A-12.5(e), HRS, also provides that “[i]n addition to subsection (c), a fine of up to \$1,000 may be levied for each specimen of all other aquatic life taken, killed, or injured in violation of subtitle 5 of title 12 or any rule adopted thereunder.” The definition of “aquatic life” includes coral. *See* HRS § 187A-1.

Under HAR § 13-95-2(b)(4), for colonial stony corals such as the colonies damaged in the anchoring event, per specimen fines may be imposed on the basis of each damaged head or colony less than one square meter in surface area or, for a colony greater than one square meter in surface area, each square meter of colony surface area and any fraction remaining constituting an additional specimen.

⁷ HRS § 187A-12.5(b) specifically addresses violations involving threatened or endangered species. Subsection (c) covers “all other violations.”

Additionally, HRS § 187A-12.5(a) authorizes the Board “to recover administrative fees and costs... or payment for damages or for the cost to correct damages resulting from a violation of” the statutes and rules pertaining to aquatic resources.

IV. APPLICATION OF LAW AND RECOMMENDED FINE

A. Maximum authorized fines

Section 187A-12.5, HRS, authorizes an administrative fine of \$1,000 for a first-time stony coral damage violation, as well as an additional \$1,000 per coral specimen injured.

Thirty-eight stony coral specimens were documented to be impacted by *Blaze II* anchoring, so the maximum administrative fine authorized for stony coral damage is \$39,000.⁸

Section 187A-12.5, HRS, further authorizes the Board to assess administrative fees and costs, including attorneys’ fees relating to a violation of stony coral protection rules.

B. Factors to be considered in assessing fines

The Board has broad discretion in assessing administrative fines for a natural resource violation. Some of the factors that the Board may take into consideration include the value of the resource damaged, costs for the State to investigate and process the violation, level of damages to the public for whom the State holds a public trust of the resource involved, extent of the respondent’s cooperation, and voluntary actions taken by the respondent to mitigate or avoid damages.⁹

1. Applicable Violations

BRADY violated HAR § 13-95-70(a)(1) (damage to stony corals) by causing the anchor and anchor chain of *Blaze II* to break or damage stony corals by deploying them into the reef ecosystem outside the Māla Wharf.

2. Resource Value

DAR utilizes a set of stony coral and live rock penalty matrices to standardize coral reef damage valuation based on coral morphology, size, rarity, benthic structure, benthic species composition, and location within a managed area.¹⁰ These matrices provide a comparable, but more detailed, categorization of stony coral values compared to the coral value table included in the

⁸ \$1,000 for the violation (damaging coral) + \$38,000 for 38 damaged specimens = \$39,000. See HRS § 187A-12.5(c) and (e).

⁹ See HAW. ADMIN. R. § 13-1-70

¹⁰ See Exhibit C, *Coral Penalty Matrices*. These coral and live rock penalty matrices were created by DAR coral reef biologists with expertise in Hawaiian coral and live rock ecosystems, and the matrices have been used by DAR and the BLNR in previous enforcement actions.

Administrative Penalty Guidelines adopted by the Board on July 22, 2009. Based on these updated matrices, the estimate of the value of the damaged resources is as follows:

Stony Coral (each colony constitutes a specimen)

<u>Species</u>	<u>Size (cm)</u>	<u># Colonies</u>		<u>Value/ Colony</u>	<u>Total Value</u>
<i>Porites compressa</i> (common, massive)	20 – 40	4	x	\$200 =	\$800
	40 – 80	2	x	\$500 =	\$1,000
	160+	1(2) ¹¹	x	\$1000 =	\$2,000
	Subtotal:				\$3,800
<i>Porites solida</i> (uncommon/rare, massive)	10 – 20 cm	6	x	\$200 =	\$1,200
	20 – 40 cm	7	x	\$400 =	\$2,800
	40 – 80 cm	14	x	\$1,000 =	\$14,000
	80 – 160 cm	4(6) ¹²	x	\$1,000 =	\$6,000
	Subtotal:				\$24,000

Total Stony Coral Value (based on count of 38 colonies): \$27,800

3. *Cost of Investigation*

Three Maui DAR staff members spent a total of 34 hours investigating and processing the violation. DOCARE spent six hours investigating the incident. DAR staff in Honolulu spent eight hours preparing the submittal for this incident. The total cost of this staff time was \$2,500, as shown in **Table 1**, below.

Operational costs for the boat trip to the site for survey totaled \$600.

Table 1. Staff hours and costs for *Blaze II* assessments.

	Hours	\$/Hour	Total
DAR Investigation	18	\$ 50.00	\$ 900.00
DAR Report	16	\$ 50.00	\$ 800.00
DOCARE Investigation	6	\$ 60.00	\$ 360.00
Boat	6	\$ 100.00	\$ 600.00
DAR Submittal	8	\$ 36.25	\$ 290.00
Total Hours	54	Total \$	\$ 2,950.00

¹¹ Under HAR § 13-95-2(b)(4), for a colony greater than one square meter in surface area, each square meter of colony surface area and any fraction remaining constitute an additional specimen. DAR Maui recorded three coral colonies that exceeded one meter in area (two *Porites solida* and one *Porites compressa*). Therefore, under HAR § 13-95-2(b)(4), these three colonies constitute six specimens and incur an additional \$3,000 in penalties.

¹² See Note 11, *supra*.

Accordingly, the total administrative cost incurred by the Department in investigating and processing this incident was **\$2,950**.

4. *Respondent's Cooperation and Voluntary Mitigative Actions*

BRADY provided minimal cooperation with the investigation. DAR is unaware of any voluntary mitigative actions taken by BRADY.

C. Recommended fines and costs

The Board has broad discretion in assessing administrative fines for a natural resource violation. In 2014, the Board adopted an Administrative Sanctions Schedule to facilitate the standardization of enforcement for violations of aquatic resource laws. This schedule recommends a \$200 fine for the applicable violation and to follow the schedule for each colony damaged. Based on the foregoing considerations, DAR recommends fines of **\$200** for the violation, **\$27,800** for the value of the resource, and administrative costs in the amount of **\$2,950** for a total assessment of **\$30,950**, as shown in **Table 2**, below. This figure reflects a conservative estimate of the amount required to compensate the State for damage to natural resources on public lands and administrative costs.

Table 2. Summary of fines and costs.

Category of Fines and Costs		Amount
Fines for Violations		\$200
Fines based on Resource Value		\$27,800
Administrative Costs		\$2,950
TOTAL		\$30,950.00

V. RECOMMENDATIONS

1. That the Board find that Kimberly Brady violated HAR §13-95-70 by anchoring her vessel, *Blaze II*, on coral reef on March 24 and 25, 2021 and damaging approximately 38 coral colonies; and
2. That the Board assess an administrative fine of \$28,000 and costs in the amount of \$2,950 for a total assessment of **\$30,950.00** against Kimberly Brady to be paid within 60 days of the date of this submittal.
3. Other terms and conditions as prescribed by the Chairperson to serve the best interests of the State shall be applicable.
4. All recommendations above and terms of the fine schedule or any payment plan shall be subject to review and approval by the Department of the Attorney General.

Respectfully Submitted,



Brian Neilson, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson
Department of Land and Natural Resources

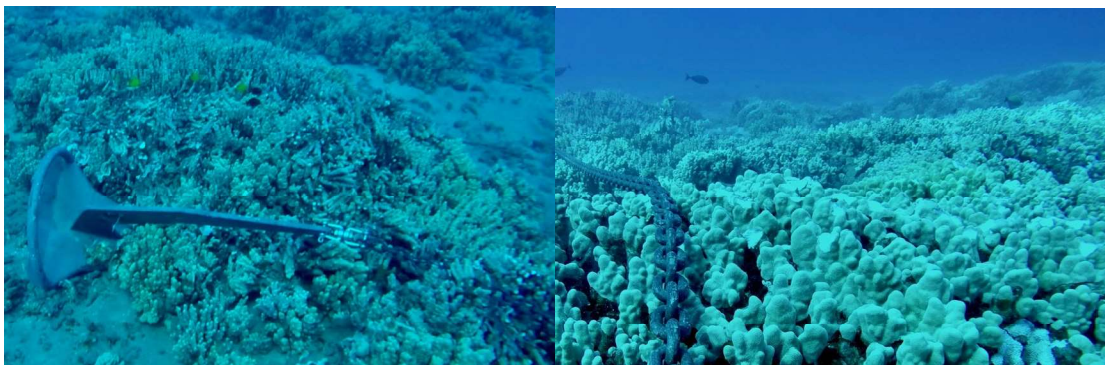
Blaze II
Anchor and Chain
Habitat Damage Assessment
April 2021

Field Investigation Report
Initial Field Assessment 3-27-2021
Final Assessment 4-7-2021

Field Assessment By: Kristy Stone and Tatiana Martinez
Report By: Kristy Stone and Russell Sparks
Division of Aquatic Resources, Maui Office



Blaze II Anchored at Mala Wharf



Blaze II Anchor on Coral

**Blaze II Anchor Chain Laying on and
damaging Coral**

Overview

On March 27, 2021, Maui Division of Aquatic Resources (DAR) received an email complaint alleging that Blaze II catamaran (pictured on the cover) was anchored on coral reef near Mala Wharf in Lahaina, Maui. The complaint was made by Pono Marine Mooring owner Brent Hartwig who documented the anchor damage by Blaze II on a patch reef within the Mala Wharf mooring area. The complainant also mentioned that the vessel arrived sometime after dark on March 25, 2021 and left shortly after he documented the damage on March 27, 2021. In response to Mr. Hartwig's initial inspection, Maui DAR conducted a site inspection on April 7, 2021. This site inspection documented damage to a total of 38 *Porites compress* and *Porites solida* coral colonies. Due to the uncommon nature of *Porites solida*, identification by photo images was verified by the DAR coral experts (Dave Gulko and Norton Chan), who will also conduct DNA testing to support identification. The following report will outline the methods used and the specific findings of this DAR site damage assessment. At the time that this report was written, The Division of Conservation and Resource Enforcement (DOCARE) was conducting their independent investigation of the specific incident details. Their findings when complete, will be included as an appendix to this report.



Photo 1: Anchor and chain impacting a mound of living coral reef.



Photo 2: Transect tape laid out along the initial site of the anchor impact to the reef.

Case History

The initial inspection was conducted on March 25, 2021 by Pono Marine Mooring owner Brent Hartwig, who was able to document the Blaze II anchor location and chain (Photo 1). Mr. Hartwig said he noticed the vessel's anchor location and being highly familiarized with the area, knew it was near a patch reef. He therefore took it upon himself to inspect the vessel's anchor and was able to document the anchor and chain damage on the reef. He also verified and photographed that the vessel was connected to the anchor and positively identified the vessel in question as being the Blaze II.

Detailed Coral Damage Assessment

Measurements of Damaged Area

During the site inspection by DAR Maui, the anchor impact area was located with the GPS coordinates provided by Mr. Hartwig (20°53'21.2"N, 156°41'22.2"W) along with other easily identifiable features shown in the original coral damages photos that he had provided. From this location a transect tape was laid out for reference along the observable chain impact scar. The coral damage ran in a northeast direction of ~30 degrees along the width of the patch reef. A 30m transect tape was used to run out the transect line which started at the anchor impact site (Meter 0) and ended at the last clear evidence of an injured colony (Meter 27). The total area of the impact scar was 13.5 m² (27m x 0.5m) (Figure 1). Two divers swam along the transect tape from opposite ends identifying coral colonies to species level, measuring colony size, and photographing the evidence. A total of 38 colonies were identified as damaged, with 31 of them being an uncommon *Porites* species called *Porites solida* and the other seven belonging to the common coral species *Porties compressa*.

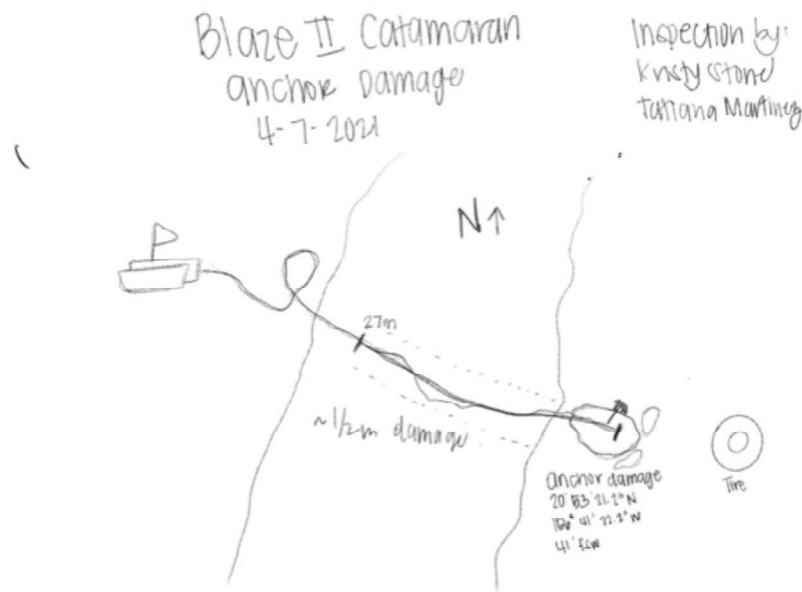


Figure 1: Diagram of anchor damage from the vessel Blaze II . Diagram created from photographs of the anchor and chain taken on 3/27/2021 and from the findings of DAR's site inspection on 4/7/2021.

Assessment of the Total Impacted Live Coral Colonies:

The site inspection was completed by one dive team, composed of two experienced DAR marine survey divers (Tatiana Martinez and Kristy Stone). One member, Kristy Stone started from the anchor impact site (at meter 0), while the other diver, Tatiana Martinez started from the end of the coral damage (at meter 27). Each diver swam towards the middle along the single transect line locating each individual damaged colony. The observer would label the colony by number, take a photo of their slate first, then a few good photos of the whole colony. Measurement of each colony were estimated using a 50cm black and white archaeological stick which is divided into 10cm segments (Photos 3 - 6). Table 1 lists all the coral damage that was observed, recorded and photographed by Kristy Stone and Tatiana Martinez. Copies of all the photographs have been saved on their respective memory cards and on a secure desktop in the Maui DAR office. In addition, one compact disc will be kept on file in the Maui DAR office within a locked and secured file drawer. All recorded coral damage was entered into the Hawaii DAR Coral Ecological Value Assessment Tool to provide guidance on the overall ecological coral characterization value of the damaged coral reef habitat (Table 2).



Photo 3: Picture of the full *Porities compressa* colony impacted by the anchor and chain.



Photo 4: Close up pictures showing specific damage to the coral colony shown in Photo 3. Several broken fragments can be seen in this image.

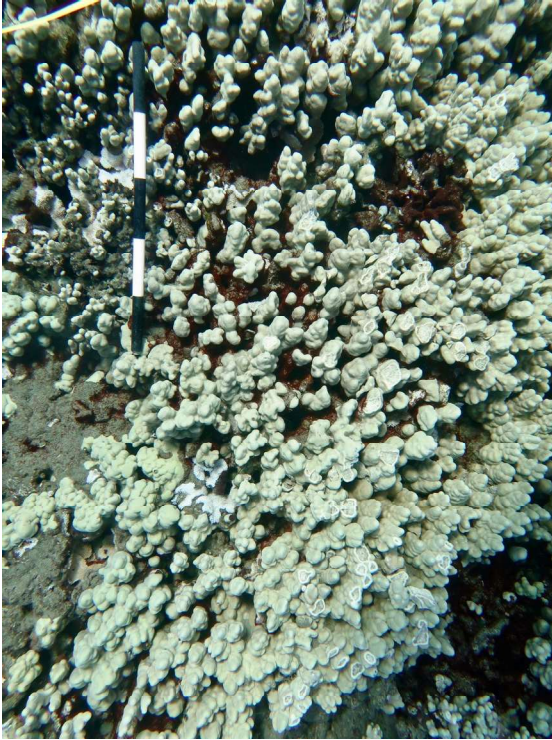


Photo 5: Picture of a full *Porites solidus* colony impacted by the anchor chain.



Photo 6: Close up picture of the same colony shown in Photo 5. This image illustrates the types of numerous small chips and broken nubs of coral that were observed along the anchor chain impact area.

Table 1: list of all damaged coral colonies, their size, and the photo image numbers that correspond with each specific damaged colony.

Colony Number	Colony ID (Species)	Size cm	Image ID start	Image ID end	Observer
1	<i>Porites solida</i>	50	4262	4265	K. Stone
2	<i>Porites solida</i>	20	4267	4275	K. Stone
3	<i>Porites compressa</i>	45	4282	4301	K. Stone
4	<i>Porites solida</i>	110	4303	4327	K. Stone
5	<i>Porites solida</i>	55	4329	4342	K. Stone
6	<i>Porites solida</i>	60	4345	4357	K. Stone
7	<i>Porites solida</i>	40	4360	4370	K. Stone
8	<i>Porites solida</i>	110	4373	4385	K. Stone
9	<i>Porites solida</i>	90	4388	4422	K. Stone
10	<i>Porites solida</i>	50	4425	4442	K. Stone
11	<i>Porites solida</i>	40	4444	4457	K. Stone
12	<i>Porites solida</i>	35	4460	4463	K. Stone
13	<i>Porites solida</i>	40	4466	4474	K. Stone
14	<i>Porites compressa</i>	25	4475	4489	K. Stone
15	<i>Porites solida</i>	40	4492	4529	K. Stone
16	<i>Porites solida</i>	45	4532	4548	K. Stone
17	<i>Porites solida</i>	70	4552	4575	K. Stone
18	<i>Porites solida</i>	55	4579	4593	K. Stone
19	<i>Porites solida</i>	40	4596	4604	K. Stone
20	<i>Porites compressa</i>	30	4607	4612	K. Stone
21	<i>Porites compressa</i>	20	4615	4617	K. Stone
22	<i>Porites compressa</i>	200	4541	4543	K. Stone
23	<i>Porites solida</i>	40	2548	2549	T. Martinez
24	<i>Porites solida</i>	20	2550	2551	T. Martinez
25	<i>Porites solida</i>	55	2550	2551	T. Martinez
26	<i>Porites compressa</i>	55	2554	2559	T. Martinez
27	<i>Porites solida</i>	60	2567	2577	T. Martinez
28	<i>Porites compressa</i>	80	2580	2589	T. Martinez
29	<i>Porites solida</i>	60	2592	2609	T. Martinez
30	<i>Porites solida</i>	60	2611	2624	T. Martinez
31	<i>Porites solida</i>	50	2628	2638	T. Martinez
32	<i>Porites solida</i>	20	2641	2647	T. Martinez
33	<i>Porites solida</i>	45	2650	2660	T. Martinez
34	<i>Porites solida</i>	20	2663	2668	T. Martinez
35	<i>Porites solida</i>	20	2671	2674	T. Martinez
36	<i>Porites solida</i>	40	2677	2683	T. Martinez
37	<i>Porites solida</i>	35	2686	2693	T. Martinez
38	<i>Porites solida</i>	60	2696	2710	T. Martinez

Table 2: Final damage assessment for the impacted area showing the number of impacted colonies in each size class with a calculation of the total coral characterization value from the Hawaii DAR Coral Ecological Value Assessment Tool.

totals for all corals in each size class per site	Characterization Value	Total Number of Coral Colonies	Number of Colonies/m ²	Number of Colonies/acre
0-5 cm	0	0	0.00	0.00
>5-10 cm	0	0	0.00	0.00
>10-20 cm	348	6	0.46	1868.58
>20-40 cm	1590	11	0.85	3425.72
>40-80 cm	9360	16	1.23	4982.87
>80-160 cm	5700	4	0.31	1245.72
> 160 cm	2400	1	0.08	311.43
TOTAL	19,398.00	38	2.92	11,834.32

Summary

The majority of the damaged habitat in the surveyed area was composed of living corals belonging to two species (*Porites solida* and *Porites compressa*). There was also signs of damage to live rock habitat that was not colonized by living corals. However, this assessment focused just on impacts to living coral colonies. The most extensive damage occurred near the site of the anchor, with significant damage found at the site where the anchor was previously photographed resting directly on the coral. There were also some chunks of displaced coral in the sandy area near this anchor impact site. This damage likely occurred when the anchor was either deployed and/or retrieved from the vessel. The bulk of the coral damage found in the DAR assessment was to the relatively uncommon coral species *Porites solida*. The uncommon nature of this coral species contributed to the assessed ecological value of the damaged reef at \$19,398. In total, the estimated damaged to living coral reef habitat was found to be along a damage scar that was 27 meters long and approximately ½ meter wide (13.5 square meters total). 38 coral colonies were found with obvious signs of damage along this impact scar (31 being the uncommon *Porities solida*, and 7 being from the more common *Porites compressa*). The total density of damaged colonies was found to be 2.92 colonies per square meter of impacted reef area.

Although much of the damage in this case appeared to be minor in scope, with the dive team documenting mostly just small broken fragments of coral dislodged from the larger colonies, there remains significant potential for negative impacts to this reef ecosystem. Each broken section of coral has become an open space where fast growing turf algae can become established, and over time, this could result in significant stress, disease and even death to entire coral colonies. To minimize this potential damage over time, it is recommended that some restoration efforts be undertaken to salvage and re-establish broken coral fragments. In addition, this reef should continue to be monitored over time allowing managers to better understand the long term impacts this incident will have on the overall health and structural integrity of this reef ecosystem.

HAWAII DLNR DOCARE**Incident Report Form****MA-21-00158**

03/24/2021

Civil Matter**Primary Officer: IBARRA, POMAIKAI - IBARPM**

<input type="checkbox"/> Juvenile Involved	<input type="checkbox"/> Investigation	<input type="checkbox"/> Video Available	<input checked="" type="checkbox"/> Gang Related	<input type="checkbox"/> Paperless
<input type="checkbox"/> Domestic Related	<input type="checkbox"/> Suspects	<input type="checkbox"/> Bias Crime	<input type="checkbox"/> Accident	<input type="checkbox"/> Administrative
<input type="checkbox"/> Alcohol Involved	<input type="checkbox"/> Arrests Made	<input type="checkbox"/> Drugs Involved	<input type="checkbox"/> Ready for DA / Prosecutor	<input type="checkbox"/> Alarm Activated

Log Number MA-21-00158	Incident Number	File Number	Case Number	UCR 1900 Other Enforcement
Incident Type CIVMAT	Dispatcher	Source PHONE	District MALAH	Status MAUI

Incident Date / Times						Incident Occurred At or Between					
Date Received 03/24/2021	Day Rec'd Wednesday	Rcvd 0800	Disp 0800	Arrv 0800	Clrd 1300	Earliest Date and Time 03/24/2021 0800 (Wednesday)			Latest Date and Time 04/02/2021 1300 (Friday)		

Disposition PEND PENDING FURTHER ACTION	Cleared by Exception	<input type="checkbox"/> Suspended			
UCR Clearance	UCR Occur Date 03/24/2021	UCR Clear Date 04/06/2021	UCR Count 1	UCR Human Traffic Code	UCR HT Count

Location UNAHIOLE STREET 20 53'21.1"N, 156 41'22.2"W LAHAINA HI 96761	<input type="checkbox"/> Intersection
Municipality: MAUI	Cross Street
Business Name MALA BOAT RAMP	GPS Loc X
Premise Code BOATRP BOAT RAMP	GPS Loc Y
Gang	Arson Value
Weather	

Modus Operandi Coding	Victim:
Entry:	Property:
Exit:	Area:
Method:	Time of Day:

WEAPON USED:

Caller / Complainant Type Normal ☐ Anonymous ☐ Hangup ☐ Refused ☐

INVOLVED PERSONS**SUSPECT****CODE: SUSP**

Name (Last, First, Middle) - Address BRADY, KIMBERLY JANE [REDACTED]	Juvenile <input type="checkbox"/>	Date of Birth [REDACTED]	Age 59	Race W	Sex F	Ethnic N	Social Security Number [REDACTED]
		Weight [REDACTED]	Height [REDACTED]	Hair BLN	Eyes [REDACTED]	Phone Number [REDACTED]	
		Driver License Number [REDACTED]	State HI	Class [REDACTED]	Expiration Date [REDACTED]		
		ID Provided DRIVER LICENSE	ID Detail [REDACTED]				

Link Comments

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APPROVED ON:

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INVOLVED PERSONS

WITNESS

CODE: WIT

Name (Last, First, Middle) - Address

HARTWIG, BRENT DOUGLAS

Juvenile ☐

Date of Birth

Age

Race

Sex

Ethnic

Social Security Number

Weight

Height

Hair

Eyes

Phone Number

Driver License Number

State

Class

Expiration Date

ID Provided

ID Detail

DRIVER LICENSE

Link Comments

INVOLVED VESSELS / BOATS

U.S.C.G Number

Vessel Name

Use

Length

Beam

Weight

Involvement Code

2103-CP

BLAZE II

CO

13

SUSPV

Propulsion

Engine Type

Number of Engines

Hull Type

Draft

Foward

Aft

Registration Number

State

OB

FI

HA-2103-CP

HI

Involvement Comments

PERSON / VEHICLE INVOLVEMENTS

Involved Person / Involvement

BRADY

KIMBERLY

OWN/OP

Plate

HA-2103-CP

State

HI

Year

2020

Make

YAMA

Model

Color

WHI

INVOLVED BUSINESSES / ORGANIZATIONS

04/06/2021

Business / Organization Name

MALA BOAT RAMP

Business Address

UNAHIOLE STREET

Phone 1

Phone 2

Phone 3

LAHAINA, HI 96761

Involvement Comments

RESPONDING / INVOLVED UNITS, OFFICERS, TIMES

Division

Supervisor / ID

MAUI

CAHILL, RONALD P JR

CAHIR

Unit Number

Officer / ID (Ofcr1 / Ofcr2)

Officer / ID (Ofcr3 / Ofcr4)

IBARRA, POMAIKAI

IBARPM

REVIEWS / REFERRALS

Date Entered

Sent by ID / Name

Sent To ID

Sent Date / Time

Acknowledged

Acknowledged Date / Time

IBARPM IBARRA, POMAIKAI

CAHIR

04/13/2021 10:52

☐

Acknowledged By Name / ID

Disposition

Review Comments

COMMENTS / NARRATIVES

Title

SYNOPSIS

Narrative Created By / Creation Date

IBARRA, POMAIKAI

04/13/2021

Narrative Updated By / Update On

IBARRA, POMAIKAI

04/13/2021

Narrative Approved By / Approved Date

On 03/24/2021 at approximately 1010 hours, a phone complainant/witness, Brent HARTWIG, reported a commercial vessel, Blaze II, anchored on coral in the area outside Mala boat ramp. Photo and video taken by HARTWIG revealed that vessel was anchored on coral resulting in damaged coral. An investigation was conducted by Division of Aquatic Resources and Maui Ocean Center on 04/07/2021. Refer to investigation report for details.

COMMENTS / NARRATIVES

Title

INVESTIGATION

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03/24/2021



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APPROVED ON:

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IRF 1.6

Print Date/Time 05/11/2021 08:40:36

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Narrative Created By / Creation Date
IBARRA, POMAIKAI

04/13/2021

Narrative Updated By / Update On
IBARRA, POMAIKAI

05/06/2021

Narrative Approved By / Approved Date

ASSIGNMENT

I am presently assigned to the Department of Land and Natural Resources (DLNR), Division of Conservation and Resources Enforcement (DOCARE), assigned to the Maui Division. On 03/24/2021, at 0745 hours I was assigned to investigate a possible stony coral damage case in ocean waters outside of Mala boat ramp.

COMPLAINANT/WITNESS STATEMENT

HARTWIG, Brent

On 03/25/2021 at approximately 1010 hours, complainant, Brent HARTWIG reported a commercial vessel, identified as Blaze II, anchored on stony coral resulting in damaging the coral in ocean waters outside of Mala boat ramp. HARTWIG took photo and video recordings to document the violation. HARTWIG also attained GPS coordinates with his Samsung 7 on Google maps.

SCENE

Ocean waters outside of Mala boat ramp. Per the witness and the witness statement, GPS coordinates 20 53'21.2" N, 156 41'22.2" W.

TIME ELEMENT

On 03/24/2021 at approximately 2000 hours, HARTWIG witnessed from shore that the Blaze II was anchored in an area known to have coral reef in the ocean waters outside of Mala boat ramp.

On 03/25/2021 at approximately 0800 hours, HARTWIG went back to Mala boat ramp and witnessed Blaze II still anchored at the same spot. HARTWIG swam out to the location and took photo and video of the damage to the coral from the anchor and chain.

On 03/25/2021 at approximately 1010 hours, HARTWIG called in his complaint for the damaged coral violation.

On 03/25/2021 at approximately 1100 hours, per HARTWIG, Blaze II pulled up anchor and left location.

On 03/26/2021 at approximately 0800 hours, HARTWIG went back to the anchored location and took video of the damage left behind after the Blaze II pulled anchor. Video got corrupted when he tried to download it.

On 04/01/2021 at approximately 0800 hours, HARTWIG went back to the anchored location and took video of the damage left behind after the Blaze II pulled anchor. Video was successfully downloaded.

POSSIBLE SUSPECT/VESSEL IDENTIFIED

Lahaina Small Boat Harbor - Assistant III Vicky

MCCUAIG

Blaze II vessel, identified by HARTWIG due to the name marked on the side of the vessel, registered owner Kimberly BRADY, later identified via Vicky MCCUAIG, Assistant III at Lahaina Small Boat Harbor. MCCUAIG provided me with BRADY's mooring permit documents. HARTWIG did not see anyone on the vessel at any time.

NOTIFICATIONS

HARTWIG notified the Division of Aquatic Resources of the coral damage incident on 03/31/2021. Division of Aquatic Resources notified DOCARE on 03/31/2021 regarding HARTWIG's complaint. HARTWIG coordinated a site inspection of the damaged coral with Division of Aquatic Resources and Maui Ocean Center Marine Institute for 04/07/2021.

CONTACT MADE

Kimberly BRADY

On 04/08/2021 at approximately 1206 hours, I made contact with Kimberly BRADY. I stated my name, office, and

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the reason for contact. We scheduled an interview time for 1400 hours for 04/08/2021. Subsequently BRADY was unable to attend the interview. We rescheduled to 04/09/2021 for 1300 hours. BRADY did attend the interview on 04/09/2021.

INTERVIEW CONDUCTED

On 04/09/2021 at the DOCARE Armory, at approximately 13000 hours, BRADY was verbally read her Miranda warnings and physically had a copy of her Miranda warnings to follow along in the presence of Officer FERNANDEZ. Upon being appraised of the day, time, location, and offense BRADY acknowledged that her boat was there. BRADY started to ask questions regarding the case as well as questioning if we had any proof. BRADY declined to acknowledge understanding her rights and to waive or exercise her right to remain silent but did continue to ask questions. Lt. CAHILL directly asked BRADY if she would like an attorney and BRADY said yes. After BRADY stated that she wanted a lawyer, I stopped the interview and escorted out of the armory. BRADY refused to sign her Miranda warnings form.

CONSTITUTIONAL RIGHTS/SPONTANEOUS UTTERANCE**Kimberly BRADY**

While reading Kimberly BRADY her constitutional rights, BRADY spontaneously uttered that her boat was at the scene on March 24, 2021 and she goes there with her vessel 1 to 2 times a week.

CHECKS CONDUCTED/DAMAGES TO REEF

Checks were conducted 04/07/2021 by Division of Aquatic Resources and Maui Ocean Center.

The damage was done by the vessel's, Blaze II, Rocna 55 anchor per HARTWIG. Rocna 55 anchors weigh approximately 121 lbs. The attached chain is approximately ½ inch thick and approximately 200' long. A coral damage spreadsheet was provided by Russell SPARKS, Division of Aquatic Resources Aquatic Biologist.

Colony Number		Colony ID	spp	Size	cm
1	Porites solida	50			
2	Porites solida	20			
3	Porites compressa	45			
4	Porites solida	110			
5	Porites solida	55			
6	Porites solida	60			
7	Porites solida	40			
8	Porites solida	110			
9	Porites solida	90			
10	Porites solida	50			
11	Porites solida	40			
12	Porites solida	35			
13	Porites solida	40			
14	Porites compressa	25			
15	Porites solida	40			
16	Porites solida	45			
17	Porites solida	70			
18	Porites solida	55			
19	Porites solida	40			
20	Porites compressa	30			
21	Porites compressa	20			
22	Porites compressa	200			
23	Porites solida	40			
24	Porites solida	20			
25	Porites solida	55			
26	Porites compressa	55			
27	Porites solida	60			
28	Porites compressa	80			



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29	Porites solida	60
30	Porites solida	60
31	Porites solida	50
32	Porites solida	20
33	Porites solida	45
34	Porites solida	20
35	Porites solida	20
36	Porites solida	40
37	Porites solida	35
38	Porites solida	60

PHOTOS

Refer to attached photo report provided by HARTWIG.

ATTACHMENTS

Attachment 1: HARTWIG's Witness Statement Form

Attachment 2: Blaze II Mooring Permit

Attachment 3: Text message correspondence between HARTWIG and BRADY

VIOLATIONS

HAR 13-95-2(b)(4)(B) Penalty (Stony coral colony greater than one square meter in surface area)

HAR 13-95-70(a)(1) Stony Corals (Unlawful for any person to damage any stony coral)

DISPOSITION

Recommend to be forwarded to the Land Board for review and final disposition.



IMAGES



Photo depicts vessel Blaze II.



Photo depicts Blaze II chain on stony coral.



Photo depicts Blaze II anchor on stony coral.



Photo depicts damaged stony coral after Blaze II pulled anchor.

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Photo depicts damage to stony coral after Blaze II pulled anchor.

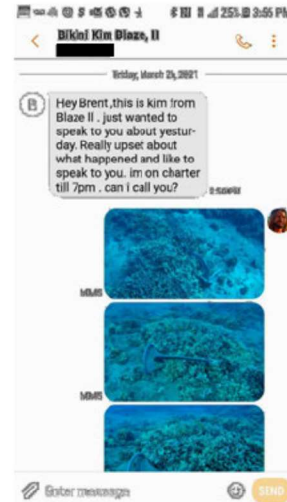


Photo depicts txt communication between suspect, Kimberly BRADY, and witness, Brent HARTWIG.



Photo depicts txt communication between suspect, Kimberly BRADY, and witness, Brent HARTWIG.

Item F-2, Exhibit C

CORAL PENALTY MATRIX

	Encrusting	Solitary	Branching	Digiform	Plate-Like	Massive
0 – 5 cm	\$10	\$20	\$25	\$25	\$25	\$20
5 – 10 cm	\$20	\$40	\$50	\$50	\$50	\$40
10 – 20 cm	\$50	\$100	\$100	\$100	\$100	\$100
20 – 40 cm	\$100	\$200	\$200	\$200	\$200	\$200
40 – 80 cm	\$200	n/a	\$400	\$400	\$500	\$500
80 – 160 cm	\$500	n/a	\$800	\$800	\$1000	\$1000
+ 160 cm	\$750	n/a	\$1000	\$1000	\$1000	\$1000

RARE CORAL PENALTY MATRIX

	Encrusting	Solitary	Branching	Digiform	Plate-Like	Massive
0 – 5 cm	\$20	\$40	\$50	\$50	\$50	\$40
5 – 10 cm	\$40	\$80	\$100	\$100	\$100	\$80
10 – 20 cm	\$100	\$200	\$200	\$200	\$200	\$200
20 – 40 cm	\$200	\$400	\$400	\$400	\$400	\$400
40 – 80 cm	\$400	n/a	\$800	\$800	\$1000	\$1000
80 – 160 cm	\$1000	n/a	\$1000	\$1000	\$1000	\$1000
+ 160 cm	\$1000	n/a	\$1000	\$1000	\$1000	\$1000

FMA CORAL PENALTY MATRIX

	Encrusting	Solitary	Branching	Digiform	Plate-Like	Massive
0 – 5 cm	\$15	\$30	\$35	\$35	\$35	\$30
5 – 10 cm	\$30	\$60	\$75	\$75	\$75	\$60
10 – 20 cm	\$75	\$150	\$150	\$150	\$150	\$150
20 – 40 cm	\$150	\$300	\$300	\$300	\$300	\$300
40 – 80 cm	\$300	n/a	\$600	\$600	\$750	\$750
80 – 160 cm	\$750	n/a	\$1000	\$1000	\$1000	\$1000
+ 160 cm	\$1000	n/a	\$1000	\$1000	\$1000	\$1000

MLCD CORAL PENALTY MATRIX

	Encrusting	Solitary	Branching	Digiform	Plate-Like	Massive
0 – 5 cm	\$20	\$40	\$50	\$50	\$50	\$40
5 – 10 cm	\$40	\$80	\$100	\$100	\$100	\$80
10 – 20 cm	\$100	\$200	\$200	\$200	\$200	\$200
20 – 40 cm	\$200	\$400	\$400	\$400	\$400	\$400
40 – 80 cm	\$400	n/a	\$800	\$800	\$1000	\$1000
80 – 160 cm	\$1000	n/a	\$1000	\$1000	\$1000	\$1000
+ 160 cm	\$1000	n/a	\$1000	\$1000	\$1000	\$1000

RARE CORAL FMA PENALTY MATRIX

	Encrusting	Solitary	Branching	Digiform	Plate-Like	Massive
0 – 5 cm	\$30	\$60	\$75	\$75	\$75	\$60
5 – 10 cm	\$60	\$120	\$150	\$150	\$150	\$120
10 – 20 cm	\$150	\$300	\$300	\$300	\$300	\$300
20 – 40 cm	\$300	\$600	\$600	\$600	\$600	\$600
40 – 80 cm	\$600	n/a	\$1000	\$1000	\$1000	\$1000
80 – 160 cm	\$1000	n/a	\$1000	\$1000	\$1000	\$1000
+ 160 cm	\$1000	n/a	\$1000	\$1000	\$1000	\$1000

RARE CORAL MLCD PENALTY MATRIX

	Encrusting	Solitary	Branching	Digiform	Plate-Like	Massive
0 – 5 cm	\$40	\$80	\$100	\$100	\$100	\$80
5 – 10 cm	\$208	\$160	\$200	\$200	\$200	\$160
10 – 20 cm	\$200	\$400	\$300	\$400	\$400	\$400
20 – 40 cm	\$400	\$800	\$800	\$800	\$800	\$800
40 – 80 cm	\$800	n/a	\$1000	\$1000	\$1000	\$1000
80 – 160 cm	\$1000	n/a	\$1000	\$1000	\$1000	\$1000
+ 160 cm	\$1000	n/a	\$1000	\$1000	\$1000	\$1000

LIVE ROCK PENALTY MATRIX (m²)

	Rubble	Pavement	Reef	Basalt	High Rugosity
Turf / Cyanobacteria	\$10	\$20	\$40	\$20	\$40
Macroalgae	\$20	\$100	\$200	\$100	\$200
CCA - Encrusting	\$200	\$400	\$600	\$400	\$600
CCA - Rugose	\$400	\$800	\$1000	\$800	\$1000
Sponge, Bryozoan, Other Sessile	\$100	\$150	\$300	\$150	\$300
Soft Coral / Zoanthid	\$80	\$200	\$400	\$200	\$400
High Biodiversity	\$200	\$400	\$600	\$400	\$600

FMA LIVE ROCK PENALTY MATRIX (m²)

	Rubble	Pavement	Reef	Basalt	High Rugosity
Turf / Cyanobacteria	\$15	\$30	\$60	\$30	\$60
Macroalgae	\$30	\$150	\$300	\$150	\$300
CCA - Encrusting	\$300	\$600	\$800	\$600	\$900
CCA - Rugose	\$600	\$1000	\$1000	\$1000	\$1000
Sponge, Bryozoan, Other Sessile	\$150	\$225	\$450	\$225	\$450
Soft Coral / Zoanthid	\$120	\$300	\$600	\$300	\$600
High Biodiversity	\$300	\$600	\$800	\$600	\$900

MLCD LIVE ROCK PENALTY MATRIX (m²)

	Rubble	Pavement	Reef	Basalt	High Rugosity
Turf / Cyanobacteria	\$20	\$40	\$80	\$40	\$80
Macroalgae	\$40	\$200	\$400	\$200	\$400
CCA - Encrusting	\$400	\$800	\$1000	\$800	\$1000
CCA - Rugose	\$800	\$1000	\$1000	\$1000	\$1000
Sponge, Bryozoan, Other Sessile	\$200	\$300	\$600	\$300	\$600
Soft Coral / Zoanthid	\$160	\$400	\$800	\$400	\$800
High Biodiversity	\$400	\$800	\$1000	\$800	\$1000