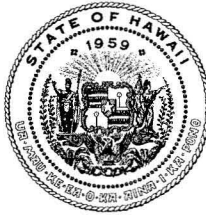


LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

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

**TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES**

on House Bill 3391 – Relating To Aquatic Resources

**BEFORE THE HOUSE COMMITTEE
ON
WATER, LAND, OCEAN RESOURCES, AND HAWAIIAN AFFAIRS**

February 8, 2008

House Bill 3391 would require the Department of Land and Natural Resources (Department) provide a comprehensive report on the status of the State's marine ecosystems. The Department appreciates the intent of the bill and offers the following comments and recommendations.

Information and data on the current character of the State's marine ecosystems, the land-based impacts, development impacts, and non-fishing impacts to them is being developed by the Department, and has contributed to the national "State of the Coral Reef Ecosystems for the United States and Pacific Freely Associated States, 2005" report. This document, which is updated every three years, assesses major impact categories, including climate change and coral bleaching; coral diseases; tropical storms damage; coastal development and runoff impacts; water pollution; tourism and recreation; fishing; and aquatic invasive species for Hawaii. This 2005 report is available to the public at (<http://www.coris.noaa.gov/>). The next update to this report is due to be released in June 2008 and coincides with the bill's timeline for an interim report for the 2009 session.

Other research projects focusing on mitigating the impacts of the above stressors are solicited, evaluated, and selected by the Department, with funding from the National Oceanographic and Atmospheric Administration, via a set of Local Action Strategy (LAS) initiatives. The Department currently focuses on LAS to address land-based sources of pollution; climate change and marine disease; alien invasive species; recreational impacts to reefs; coral reef fisheries; and outreach and education. Three year strategic plans have been developed for each LAS category, and multi-stakeholder steering committees have been established for each strategy. These committees work to implement research and management activities pertinent to each plan. Completion of these 3-year strategic plans in association with the next update of the national state of the reefs report in 2011 would coincide with the bill's timeline for the final report, should the Department's recommendation be accepted.

As such, the Department recommends that the following language be added at the end of the bill's SECTION 2:

- “ (4) Proposed actions to mitigate impacts on aquatic ecosystems, including anticipated results, a scheduled evaluation process, and strategies to assess effectiveness; and seek to include relevant material from resources including but not limited to the national “State of the Coral Reef Ecosystems for the United States and Pacific Freely Associated States”, the National Oceanographic and Atmospheric Administration Coral Program, Hawaii grants and relevant funded projects (Hawaii Local Action Strategies – Plans and Projects), the Hawaii Conservation Alliance proceedings, the health condition of Hawaii’s resources annual report, and the Hawaii Ocean Resources Management Plan priority areas progress reports.”

Further, the Department recommends that the timeline for the required reporting in SECTION 3 be amended as follows:

“The department of land and natural resources shall submit an interim report no later than twenty days prior to the convening of the regular session of 2009, and shall submit a final report on its findings and recommendations, including proposed legislation, to the legislature no later than twenty day prior to the convening of the regular session of 2012.”

The Department believes that the deliverables as outlined in this bill can be met provided there is consideration given to its recommendations.

Testimony of The Nature Conservancy of Hawai'i
Supporting With Amendments H.B. 3391 Relating to Aquatic Resources
House Committee on Water, Land, Ocean Resources & Hawaiian Affairs
Friday, February 8, 2008, 8:30 AM, Room 312

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy of Hawai'i supports H.B. 3391 with the amendments suggested below and attached.

Healthy reefs and fisheries have many economic, environmental and cultural benefits. We all have a stake in their future. Furthermore, fishing is integral to our cultural heritage and our island way of life. However, as anyone who has spent time in Hawaiian waters knows, many of our reefs and fisheries are at serious risk from a variety of threats and a precipitous decline in near shore populations of fishes. In fact, scientists estimate that our near shore fisheries are merely one-quarter of what they were a century ago—that is a decline of 75% over 100 years.

This bill points out the critical importance of assessing and mitigating the full range of impacts and threats to our aquatic resources. In order to better achieve this important goal, **The Nature Conservancy recommends that the bill be amended to:**

- **Include assessment of additional impacts, including such things as alien species and over harvesting of resources; and**
- **Provide the DLNR with additional resources to properly conduct this review and reporting.**

Detailed proposed amendments are attached.

Attachment

BOARD OF TRUSTEES

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Report Title:

Aquatic Resources

Description:

Requires the department of land and natural resources to assess and report the status of Hawaii's aquatic resources.

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE,
2008
STATE OF HAWAII

H.B. NO.

3391

A BILL FOR AN ACT

Relating to aquatic resources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the aquatic resources of Hawaii are in danger. The replenishment and conservation of these resources are vital to the economic, cultural, environmental, health, and social well-being of the State's residents, visitors, and future generations. In addition, the State's marine ecosystems are vital to global biodiversity. The legislature further finds that negative impacts on the size, number, distribution, diversity, and quality of important marine species and habitats may be reversed by assessing and mitigating activities that affect the marine ecosystem. ~~The legislature further finds that the department of land and natural resources has done extensive studies to assess the effects of fishing on the marine resources, but has done little to investigate and assess the impacts of development, shore-based activities, and non-fishing activities on aquatic ecosystems, despite its clear statutory mandate to do so under section 187A-2(6), Hawaii Revised Statutes.~~

The purpose of this Act is to require the department of land and natural resources to provide a comprehensive report on the status of the State's marine ecosystems.

SECTION 2. The department of land and natural resources shall compile a report that contains information and data on the following:

(1) The current character of the State's ~~aquatic~~ marine ecosystems;

(2) Impacts on the State's marine ~~aquatic~~ ecosystems and fishery resources from:

(a) development, including shore-based activities and non-fishing activities;

(b) alien species;

(c) runoff and sedimentation;

(d) harvesting of marine organisms;

(e) pollution;

(f) fresh water inputs; and

(g) other relevant sources and activities; and

~~(3) Impacts on the State's fishery resources from development; and~~

~~(4)~~ (3) Proposed actions to mitigate impacts on aquatic marine ecosystems, including anticipated results, a scheduled evaluation process, and strategies to assess effectiveness.

SECTION 3. The department of land and natural resources shall submit an interim report to the legislature no later than twenty days prior to the convening of the regular session of 2009, and shall submit a final report on its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2010. The final report shall include:

(1) An analysis of the impacts and benefits of the recommendations;

(2) A record of stakeholders' assistance and input; and

(3) The supporting rationale and data for the proposed recommendations.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii \$1,000,000 or so much thereof as may be necessary for fiscal year 2008-2009 to the department of land and natural resources to carry out the purposes of this act, including contracting relevant expertise to support the purposes of this act.

SECTION 5. This Act shall take effect upon its approval.



Conservation Council for Hawai'i

Testimony Submitted to the House Committee on Water, Land,
Ocean Resources & Hawaiian Affairs

Hearing: Friday, February 8, 2008
8:30 am Room 312

Opposition to HB 3391 Relating to Aquatic Resources

Aloha. The Conservation Council for Hawai'i opposes HB 3391, which requires the Department of Land and Natural Resources to assess and report the status of Hawai'i's aquatic resources. We oppose this bill because singling out development and shore-based non-fishing activities is difficult, if not impossible to do, especially after the fact, as would be the case for most of Hawai'i's coastline.

The bill is also unnecessary because we already know, generally, how development and land activities affect the ocean. We know that siltation and runoff events degrade the reefs and threaten fish and other aquatic life. We know that overgrazing, large-scale agriculture, and the proliferation of feral pigs and other introduced hoofed mammals in our watersheds contribute to erosion and runoff. We know that discharging millions of gallons of partially treated wastewater into our oceans has an impact somewhere, whether it is offshore or closer to land. We understand that reports may be available on these subjects.

Last, we oppose this bill because it appears to single out the Division of Aquatic Resources and punish it for attempting to regulate fishing in this state. Fishing is a legitimate and worthy activity in Hawai'i. But it is not a free-for-all. Fishers must understand that fishing – like all activities in public areas using public resources – must be regulated. Fishers understand that our aquatic resources and ecosystems are in trouble, but they fail to acknowledge that regulation is necessary to protect the ocean for all of our citizens to use and enjoy. Regulating fishing does not mean that the fishers are at fault or that fishing is the only stress on our ocean resources.

Instead of requiring an assessment of the impacts of development and shore-based non-fishing activities on aquatic resources, we encourage the legislature to consider mandatory increased shoreline setbacks for development and large-scale agriculture, require mandatory wetlands, siltation basins, and drainage features that help prevent siltation and runoff from occurring, and require best management practices identified by the Office of Planning several years ago to address non-point source pollution.

Mahalo nui loa for the opportunity to testify.

Sincerely,



Working Today for the Nature of Tomorrow!

Telephone/Fax 808.593.0255 • email: info@conservehi.org • web: www.conservehi.org

P.O. Box 2923 • Honolulu, HI 96802 • Office: 250 Ward Ave., Suite 212 • Honolulu, HI 96814

Hawai'i Affiliate of the National Wildlife Federation

President: *Julie Leialoha* * Vice-President: *Nelson Ho* * Secretary/Treasurer: *Kim Ramos* * Directors: *Fred Kraus, Ph.D.* * *Douglas Lamerson,*
George Robertson * *Claire Shimabukuro* * *Helene Takemoto* * *Mashuri Waite* * Executive Director: *Marjorie Ziegler*

Marjorie Ziegler



From: Ron Tubbs [mailto:rtmb@hawaiiantel.net]
Sent: Tuesday, February 05, 2008 7:53 PM
To: WLHtestimony
Subject: Committee on Water, Land 2-8-08 , 8:30 AM, Room 312

From Ron Tubbs, RT Distributors, Hawaii Tropical Fish Association

Dear Representatives,

We oppose HB 3391 and support HB 2687

Over 3 million dollars have been spent on CRAMP studies to tell you what I can tell you for free. Many Laws need to be changed and some new laws need to be enacted but **HB 3391 is not the right one at this time. FISH COUNTS ARE VERY INACURATE DUE TO POPULATION BLOOMS AND BREEDING SEASONS. EXAMPLE IF FISH ARE COUNTED IN SEPTEMBER THE MONTH MOST FRY ARE BORN COUNTS WILL BE VERY HIGH. IF FISH ARE COUNTED IN JULY MOST FRY HAVE BEEN CONSUMED BY PREDITORS AND COUNTS WILL BE LOW. MILLIONS HAVE BEEN WAISTEDE ON COUNTS DONE WITHOUT BREEDING SEASON AND FISH BLOOMS BEING TAKEN INTO ACCOUNT!**

Many laws on the books need to be repealed-example convict tangs are very abundant an not taken by any grop of fisherman in quantity but the are protected by a size limit. **We support HB 2687**

DNLR and West Hawaii Marine Fisheries Council have been working for decades on protecting Hawaii,s Marine Resources and there next step is Species Of Significant Interest. This bill we support and it is long over due. Protecting larger breeders of each species needs to be done too. Limited entry is another bill comming up we oppose. Bag limits would only eliminate an economically viable, sustainable, renewable resource buisness.

Il would like to share some information with you regarding Bag Limits on Aquarium fish. As a college graduate I hope you will see through the inaccuracies and lies of Snorkle Bobs, his website, and other biased ecology groups supporting this bill. They are good intentioned but uneducated in this area. This bill would basically close the Aquarium fish industry. Competition from abroad and costs would prohibit the business with such a small catch limit. I am an ecologist with 8 years of college from UH. I am also an aquarium fish collector. I am biased in favor of the aquarium fish Industry. For this reason I will stick only to some **important facts** regarding this bill.

The State of Hawaii has the **strictest laws of any State** in the US. Aquarium fish taking is highly regulated and they answer to Fish and Wildlife, DNLR enforcement, Department of Agriculture and the USDA. Tropical fish require Veterinarian inspections when shipped to certain areas. Health and quality of fish is very important. Size limits, preserves, Marine Protected Areas, and nearly 100 laws regulate Tropical fish collecting.

THE BIG QUESTION IS SUSTAINABILITY? Marine fish are THE MOST RENEWABLE RESOURCE. Marine fish are the most efficient breeders on the planet. Many species can spread or lay **several hundred thousand to half a million eggs at one breeding.** Most of Hawaii's fish are broadcast breeders repopulating wide areas. Most of Hawaii's fish species are found throughout the South Pacific. Fish breed once to twice a year and most can reach breeding size in one year. Large overpopulation fish blooms occur all the time –in 2003 very large population occurred in the Aweoweo, Yellow tang, Morish idols and Potters angels. Reports of this bloom

were reported in the news and media. **Yellow Tang populations are out of control in preserve areas (MPA Marine Protected Areas of Kailua Kona) yellow tang counts are up %48 causing the decline of other species due to food supply (www.CRAMP.com) and DNLN website.**

The ocean covers most of this planet with **fish out numbering any other species on earth. Hawaii has over 4508 square miles of diveable ocean. Hawaii's corals grow 3 to 5 inches a year-** growth dependant on sunlight and depth. . Only very near shore reefs in runoff areas with little current are in decline; see (www.CRAMP.com) study of Kaneohe and Maui. Hawaii's reef fish do not eat seaweeds which grow as a result of Eutrication-runoff. There is over 6 feet deep of new coral in many of Kaneohe Bays reefs that were dredged in the 1940's. Most of the Hawaiian Islands are untouched by Tropical fish collecting. Collecting is limited to patches on the Kailua Kona coast (30% of which is protected by MPA - Marine Protected Areas) and West and South shores of Oahu. Some patches of other areas are fished occasionally. **EIGHTY FIVE PERCENT OF THE BIG ISLAND, ALMOST ALL MAUI, ALL MOLOKAI, ALL KAUAI, ALL NIHAU AND THE NORTHWEST HAWAIIAN ISLANDS ARE NOT FISHED BY TROPICAL FISH DIVERS.** 2001 and 2002 Great annual fish counts conducted on several islands (www.reef.org) showed an increase of fish in areas counted by 2% to 23% for most species showing **an overall increase in State's fish populations.** The DNLN 3 million MPA study showed an increase there as well (some species declined in counts there due to overpopulation-species crowding-ecosystems can only support a certain population). UH fish counts in Kaneohe Bay show fish increases and fish counts at all artificial reefs like the YO57 ship off Waikiki show increased fish counts. **THERE IS NO SCIENTIFIC DATA SHOWING POPULATION SCARCITY FROM TROPICAL FISH COLLECTING. NO FISH IN HAWAII HAS BECOME EXTINCT!**

One of DNLN's next steps is regulations based on data regarding species of significant interest. Tropical Fish Collectors support protecting species which have population declines or are in need of protection due to possible extinction. I am sure the DNLN will introduce legislation after their scientific studies. THIS WOULD SOLVE ANY PROBLEMS REGARDING BAG LIMITS WHICH HAVE BEEN PROPOSED. See DNLN website for more info.

There are at most 60 divers in all Hawaii who collect tropical fish. The 60 divers are split about evenly between Oahu and Kailua Kona. More are licensed but dive rarely if at all. There are far more ex tropical fish diver permits than current divers. Most of these 60 have side jobs or cannot dive full time due to weather restrictions. Collectors rotate their spots and have been in business for as long as 40 years. Tropical fish collectors make money long term diving the same rotated areas. Due to decompression limits a diver can cover at most 50 square feet per dive at 60 feet with a 2-4 dives a day limit. Divers go out just a few days a week. Fish are smart and run from the divers. Hiding spaces, coral, artificial reefs, rocks ect. prevent the capture of most fish in any area. Big breeders take up too much space in the catch bucket so abundant smaller fish are caught. Most small fish do not reach adulthood due to predators and food supply. In the long run overall populations are not impacted. It would be impossible to catch all fish from one area. Divers have an interest to leave breeders to increase populations. Rotating spots insures future money from diving. **HAWAII HAS 28 MILLION SQUARE FEET OF DIVE ABLE OCEAN.**

THE POOR LITTLE FISH. Aquarium fish hobbyists spend a lot of money to keep the fish they buy healthy and happy. Enriched foods, controlled environments, medications and lack of predators greatly increase the lifespan of fish. Breeders are successfully breeding many species caught in Hawaii and may become future main suppliers for Hawaiian indigenous fish. Local fish have been kept alive for 12 years. This same fish normally could only survive in the wild for a couple years. Tropical fish divers only get paid for live healthy fish so care and health is the only way to make money in the business.

THE INDUSTRY IS DECLINEING IN DEMAND FOR TROPICAL FISH. THE SAME FISH THAT COME FROM HAWAII ARE SOLD FROM INDONESIA AND THE PHILIPINES FOR .25 CENT TO JUST ONE DOLLAR. COMPUTERS AND ADVANCES IN MEDIA HAVE DRASTICALLY REDUCED THE MARKET FOR TROPICAL FISH. MOST OF THE YEAR DIVERS ARE TOLD NOT TO DIVE AS THERE IS NOT ENOUGH DEMAND FOR THE FISH. DNLR FISH COUNTS HAVE SHOWN INCREASED FISH COUNTS DUE TO MANDITORY FILING OF FISH CATCH REPORTS (A COUPLE OF YEARS AGO RULES ENACTED STATE: IF YOU DO NOT FILE-PERMITS ARE NOT RENEWED). **In actuality fish catches have declined and demand has declined. The industry has seen many divers and wholesalers leave the business.** Increased laws have also played a role in the decline of the industry. The second largest wholesaler has see a loss of %90 in business and is on the way out right now. He represents one forth of all our business.

THERE IS SO MUCH MISINFORMATION REGARDING TROPICAL FISH COLLECTING THAT IT WOULD TAKE PAGES MORE TO COVER IT ALL. PLEASE RESPOND TO THIS EMAIL WITH ANY QUESTIONS OR COMMENTS. FISH COUNTS AND PAPPERS CAN BE SUPPLIED TO BACK UP THE ABOVE FACTS UPON REQUEST. **THE SYNOPSIS IS WE CAN HAVE A SUSTAINABLE TROPICAL FISH INDUSTRY WITH NO SIGNIFICANT IMPACT AND THIS POTENTIAL LAW WOULD KILL ANY FUTURE OF THIS BISNESS.**

Scientific based laws are needed to protect certian fish and Hawaii's oceans. HTFA (Hawaii Tropical Fish Association) supports species of significant interest and laws protecting Hawaii.s reefs. THIS LAW WAS INTRODUCED TO ELIMINATE ALL TROPICAL FISH COLLECTORS. THE TROPICAL FISH INDUSTRY CAN CONTINUE TO PROVIDE ECONOMIC BENIFIT TO HAWAII FOREVER WITH NO MAJOR IMPACT ON FISH POPULATIONS. WE NEED WISDOM AND YOUR SUPPORT.

**Ron Tubbs 808-259-9997
Hawaii Tropical Fish Association**

Representative Ken Ito, Chair
Representative Jon Riki Karamatsu, Vice Chair
Committee on Water, Land, Ocean Resources and Hawaiian Affairs
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair
Committee on Finance

Friday, February 8, 2008
8:30AM, Conference Room 312

In Strong Support of HB3391, Aquatic Resources

Chairs Ito and Oshiro, Vice Chairs Karamatsu and Lee, and respective committee members. I am Roy Morioka, a retiree and fisherman and I thank you for this opportunity to testify in strong support of requiring the department of land and natural resources to assess and report to the legislature the status of our marine resources.

As a fisherman, I have watched incredulously as bill after bill to protect and conserve important marine resources only target the extractive users of these resources while often devastating, and longer term impacts to the fragile marine ecosystem are ignored and often deferred/referred to "other" state departments. Since the department of land and natural resources who in my opinion is the responsible agency regarding the natural resources of our state has failed to adequately study, assess these impacts and report to the public the condition of these ecosystems, we will never know what effects development, fresh water diversion, fresh water use, untreated sewage, run off, etc. are having on our marine and estuarial ecosystems.

As a resident of the Maunalua Bay coastline, I have sadly witnessed the devastation and loss of the reef and habitats caused by the massive developments on the mountains and valleys adjoining the bay including the loss of Kuapa Pond. The loss/decline of limu and fish species can be attributed to the loss of estuarial habitat, freshwater percolating on the shoreline and the tremendous siltation that has occurred since the mid-fifties. If this bill at a minimum causes the department to perform its duty as the champion of our marine resources to better monitor and report on such impacts, the department can take appropriate actions to mitigate such impacts, or, the public can be better informed and call for actions that would afford our resources a better chance of survival in the years ahead.

Thank you again for this opportunity to testify in strong support of this important measure.

Sincerely Yours,
Roy Morioka

Wayne Yagi

From: RNM [moriokar001@hawaii.rr.com]
Sent: Thursday, February 07, 2008 6:23 AM
To: WLHtestimony
Subject: Fw: HB3391 testimony

WHLtestimony@Capitol.hawaii.gov

WLHtestimony@Capitol.hawaii.gov

WLH Committee Chair Ken Ito and Vice Chair Riki Karamatsu and committee members

Friday 2-8-08 at 8:30 am room 312 Support HB 3391

Aloha Honorable Chair Ken Ito My name is Carl Pao Jellings Waianae resident and Fisherman, I would Like to send My strong Support for HB 3391,, I feel first hand the impacts of development on coastal resources I am in favor of this measure Please pass House Bill 3391.

TESTIMONY IN SUPPORT OF HB 3391

Rep. Ken Ito, WLH Chair
Rep. Jon Riki Karamatsu, Vice Chair

Chairman Ito and WLH committee members, I am asking your support of HB 3391. This bill is crucial to the success of ocean resources. This measure brings science and fact into any decision making and allows the Department of Land and Natural Resources to use its resources more efficiently and productively. We would be able to establish true cause and effect and for once determine the condition of our marine ecosystem without conjecture or anecdotal data. Please support this measure.

Sincerely,
Brian Kimata