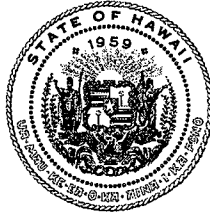


TESTIMONY
HB1712, HD2

LINDA LINGLE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the Senate Committee on
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS**

Friday, March 20, 2009

3:00 PM

State Capitol, Conference Room 229

**In consideration of
HOUSE BILL 1712, HOUSE DRAFT 2
RELATING TO FISHING**

House Bill 1712, House Draft 2 directs the Department of Land and Natural Resources (Department) in managing parrotfish (uhu), goatfish (weke/moana kali) and jacks (uluu/papio) to continue holding public informational meetings; to utilize, gather new and present all available data; and to develop monitoring and evaluation programs. Specifically, the bill directs the Department to: 1) Use and present all available data to support the basis for any proposed rule based on public input; 2) Develop a monitoring and evaluation program to determine the effects from runoff, sedimentation, pollution, lack or profusion of fresh water intrusion into the marine environment; and 3) Develop a monitoring and evaluation program to determine the outcomes to be achieved by implementing any rule and to estimate the timeframe for these outcomes to be achieved. The Department strongly opposes this bill.

The bill contains substantial elements of similar measures that failed to pass the Legislature in 2006 and 2007. The current measure would impose constraints on the management of marine fisheries resources, such as requiring scientific justifications so restrictive that they would be difficult if not impossible to meet. This will impair the Department's ability to properly manage aquatic resources for the public trust as established in Article 11, Section 1 of the Hawaii State Constitution, and essentially preclude pro-active or precautionary management.

In addition, this legislation requires supporting data, including stock assessments to be conducted for the identified species. Given that stock assessments are lengthy projects, and that these species in Hawaii range across both the main Hawaiian Islands and the Northwest Hawaiian Islands, meeting this requirement would take years worth of field research and hundreds of thousands of dollars for each species involved, and would effectively put a moratorium on any management actions related to marine fish stocks for the better part of a decade. This would be

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

prejudicial to meaningful marine management, since many stocks are undergoing rapid responses due to large scale global environmental changes, such as warming climate.

This bill would also require a monitoring and reporting program for every rule passed by the Department affecting species of uhu, weke, and papio, no matter how minor. In some cases such monitoring and reporting programs are completely applicable, but for others such requirements would result in trivial studies that would inappropriately divert limited staff resources. This is a particular concern in the current economic climate, where a near-term loss of resources at the Department level is all but inevitable.

The Department further notes that the mandated process of administrative rulemaking takes into consideration the impacts of each proposal on resources, businesses, and the public, and includes opportunities provided by law for interested parties to provide their comments. Therefore this measure would to some extent re-create existing protocols. Relative to any rule achieving its intended purpose, requiring reports in the manner proposed would do no more than what is already being done, and would therefore result in duplicative effort and thereby detract from the Department's overall efficiency and productivity.

Finally, the Department notes that the Legislature provided the Department with the authority to promulgate administrative rules regulating aquatic resources, and that the Department is adhering to the prescribed process. Certain clauses adopted by the Legislature in recent years clearly reflect an intent that the Department be allowed to operate in this arena, for example: "... WHEREAS, Chapter 91, Hawaii Revised Statutes, provides the Department of Land and Natural Resources (DLNR) with the statutory authority to adopt relevant rules, and it is not the Legislature's intent to supersede the rulemaking authority of DLNR..." (eg. House Concurrent Resolution 347 - 2008). This would appear to support the Department's position as adopted in this testimony, and the rulemaking process currently in use by the Department. The Department therefore requests that the Legislature allow the Department to proceed with its rule making without adding further unfunded mandates, particularly in light of current economic circumstances.

In summary, this is an unnecessary and duplicative measure that inhibits rather than enhances the process of marine resources management, and should not be advanced out of committee.

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair

NOTICE OF HEARING

DATE: Friday, March 20, 2009
TIME: 3:00 p.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

TESTIMONY IN SUPPORT OF HB1712

TESTIMONY

Hawaii Nearshore Fishermen are in support of HB1712

HB1712 will require the Department of Land and Natural Resources to provide supporting data as a basis for any new rules that would regulate the taking of uhu, weke, & Papio.

HNF feel the providing of sound data for the basis during the implementation of new marine resource management measures should go without saying. Actually, this format should apply to all species, not only Uhu, weke, and Papio. After all, most fisheries management regimes such as on a federal level use a very extensive science based process as well as fishermen advisory and public input processes.

The role of Government should be to expend proper due diligence and when necessary apply rules and regulations in an equitable manner to its citizens. We feel HB1712 is a first step in this direction.

Our experience with the Department of Land and Natural Resources chapter 91 rule making process with respect to fishing rules and regulations is this:

1. Department identifies an issue or need or responds to various "requests" to do so.
2. Department holds internal dialog where the end game result is identified and developed.
3. Public informal meetings are staged and conducted followed by the formal public hearing process that are also staged and conducted.
4. Rules get generated.

During this process, science or sound stocks data is rarely used as justification for management measures and the troubling new trend we see in the whole process is the use of privately sponsored public opinion polls and various other public relations initiatives to sway opinions during the public hearing process.

An example of this would be where the department ignored the recommendations of their own community based and expert gill net task forces' recommendations for regulating gill net use and instead deferred for 7 years only to end up banning gill nets out right after a well campaigned and lengthy public meeting and hearing process where public opinion polls and media PR campaigns brought forth their final justification to out right ban gill nets – a painful, emotional, and controversial exercise for sure. One that brought tears too many and divided the community everlasting.

HNF believe this “social marketing” and politics should stay out of fisheries management and that management measures should be science based - at least at the foundation.

We notice that section (5) of original HB1665 has been completely removed in the HD1 amended version. This takes out the reporting requirements and other perhaps burdensome fiscal implications that this bill might generate. Because of this, there should be no reason why this bill would impart any extra financial burden on the Department. It merely reiterates what section 187 A-2 (6) already calls for but seems to be left out in common practice.

Is there proper use of funding? The Department of Aquatic Resources has biologists and managers and is funded to carry out the management duties within the department. Yet, when we ask for basis for new measures, we get reasons like “we are responding to user conflicts and someone called from Kauai”.. or the opinion poll says community members indicate such and such...

This committee should ask the question, How is the department determining management measures? More specifically how are they spending the funding to conduct the science of management?

We feel if management measures are developed by opinion, polls, and “scoping sessions” then what use is it to even have a Department of Aquatic resources complete with biologists and fisheries managers and reef specialists and reef conservation task force proponents anyway?

The department is funded to fulfill statutes. Part of those statutes says they should among other things provide pertinent information and statistic - Section 187A-2 HRS (3):

Gather and compile information and statistics concerning the habitat and character of, and increase and decrease in, aquatic resources in the State, including the care, and propagation of aquatic resources for protective, productive, and aesthetic purposes, and other useful information...

This pertinent information and statistics should be science based and not arbitrary or politically driven.

Although we feel the statute should go much farther in the requirement to provide a valid and documented scientific need prior to implementing drastic prohibitive management measures, HB1712 gently reminds the department of the necessity to be accurate, genuine and equitable in measures affecting resource use and management.

HNF provide Honolulu markets with fresh nearshore caught species each month. Many of these species have been caught sustainably since time began. Contrary to fashionable reports of reef fish decline, fishermen and markets are reporting extreme bountiful catches of certain species. An example of this would be Akule, Oio, Papio, Ulua, and Weke.

HNF feel their ability to continue to provide Islanders with fresh fish will be severely hampered – irrespective of actual stock biomass and health of the resource if a sound basis for management measures are not used. Furthermore, it is the fishermen themselves that are poised to offer the most data, experience, and insight to this resource.

Therefore, the fishermen support HB1712.

Respectfully submitted,
Tony Costa

COMMITTEE ON FINANCE
Sen. Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair

March 17, 2009

RE: HB1712 HD2 scheduled to be heard by WTL on Friday, 3/12/09 at 3:00 pm in conference room 229.

My name is Brian F. Funai and I am testifying in support of HB1712 HD2.

While I am concerned that new fishing regulations are needed to make sure that we have a healthy resource for our and future generations, I am very concerned that the Hawaii Division of Aquatic Resources of the DLNR is skirting its responsibility of actively managing the resource through monitoring, data gathering, and unbiased scientific analysis. All of the successful fisheries and sensitive ecosystems around the country are actively managed by 1. Understanding what it is that they are managing – how much, where, when and under what conditions and 2. Continuously monitoring, creating regulations, and modifying them based on what #1 tells you, just as this bill would require. Instead of doing its job, the Department has continually neglected its responsibility by basing management decisions not on data but on polls, politics and public opinion.

If the ocean resource is that important to the State and all of the income generated from it that we depend on, then it should be treated equally. No doubt that opponents of this bill will say it is too expensive and time consuming but I liken it to saying that highways and hospitals are too expensive and take too long to build. For many of us, the health of our ocean resource IS as important as driving comfortably and it IS a life or death situation.

In addition, the Department has failed to take into consideration other land and ocean based activities in addition to fishing that are clearly of some impact. As others will mention, fishermen are very disappointed in the division's response that they only manage fish and can do nothing else about what other divisions are responsible for. I find this to be rather baffling when the Department's title is the Department of Land and Natural Resources; one

that is charged with protecting and managing our resources for ALL of the people of Hawaii.

Thank you for your time and allowing me to testify.

Brian F. Funai
Kaneohe, HI 96744

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2009 12:56 AM
To: WTLTestimony
Cc: debbie_ccn@yahoo.com
Subject: Testimony for HB1712 on 3/20/2009 3:00:00 PM

Testimony for WTL 3/20/2009 3:00:00 PM HB1712

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Debora Gowensmith
Organization: Hawaii Community Stewardship Network
Address: 1003 Bishop Street, Suite 2605 Honolulu, HI
Phone: 808-348-1694
E-mail: debbie_ccn@yahoo.com
Submitted on: 3/18/2009

Comments:
March 17, 2009

TO: Senator Clayton Hee, Chair; Senator Jill Tokuda, Vice-Chair; and members of the Committee on Water, Land, Agriculture, and Hawaiian Affairs

FROM: Debbie Gowensmith, Director
Hawai'i Community Stewardship Network
A project of Community Links Hawai'i
1003 Bishop Street, Suite 2605, Honolulu, HI 96813

RE: OPPOSITION TO H.B. 1712, H.D. 2
To be heard March 20, 2009, 3 p.m. in Conference Room 229

Dear Chair Hee, Vice-Chair Tokuda, and Committee Members:

The Hawai'i Community Stewardship Network empowers Hawai'i's communities to care for their environmental heritage. We work with more than 20 coastal communities around the state who are organizing the grassroots to mālama 'āina and practice their kuleana for ecologically, culturally, and spiritually important natural resources. They are motivated by the practices taught to them by their ancestors, who sustainably fed generations of Hawaiians, and by their hope that future generations will be able to feed their families from the abundance of Hawaii's natural resources.

We respectfully oppose H.B. 1712, HD 2. While we agree that science should play a significant role in shaping management actions, so should other considerations such as traditional practices and cultural uses. In addition, every management decision must be assessed for its feasibility, including financial considerations. This bill does not pay proper respect to community-based management founded upon traditional and cultural practice. It also does not attend to feasibility, as the Legislature would have to provide a massive increase in funding to the DLNR if it expects the DLNR to develop such a wide-ranging monitoring and assessment program and complete such extensive stock assessments. Passing the bill without providing the funding would be saying, in effect, that no fisheries management at all is better than the Administrative Rules process that Legislators developed for the DLNR to follow.

We hope that the authors of this reoccurring bill, the DLNR, and the Legislature can soon agree upon a reasonable and financially feasible degree of scientific assessment and monitoring that will continue to allow for the management of Hawai'i's critically important resources.

Respectfully,
Debbie Gowensmith

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2009 7:44 AM
To: WTLTestimony
Cc: leinaur001@hawaii.rr.com
Subject: Testimony for HB1712 on 3/20/2009 3:00:00 PM

Testimony for WTL 3/20/2009 3:00:00 PM HB1712

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Roberts Leinau
Organization: Individual
Address: 59-525 Aukauka Pl Haleiwa
Phone: 638-7010
E-mail: leinaur001@hawaii.rr.com
Submitted on: 3/18/2009

Comments:

The oceans world wide are being depleted. The aquatic resources in Hawaii's inshore waters are also sadly depleted due primarily to over fishing. The DLNR has an obligation to protect the resources for everyone. Those with a short term "me /now" orientation must not be allowed to erode an appropriate long term eco-ethic. I want my grand children to be able to experience the abundance in the ocean.

This current bill creates an unrealistic burden on the DLNR to prove its well agreed upon objectives. There is not enough time & money to do all of the mandated science.

Respectfully submitted Roberts Leinau

Testimony of The Nature Conservancy of Hawai'i
(Mark Fox, Director of External Affairs)
Opposing H.B. 1712 HD2 Relating to Fishing
Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs
March 20, 2009, 3:00PM, Room 229

The Nature Conservancy opposes H.B. 1712 HD2 for the following reasons.

There is already clear and abundant scientific data, analysis and evidence being utilized by the DLNR that points to serious declines in near-shore fish populations, especially among the large fishes that are so important for replenishing the reef. A recent analysis of DLNR Division of Aquatic Resources (DAR) and federal National Oceanic & Atmospheric Administration (NOAA) data shows that **75% of targeted reef fishes in the main Hawaiian Islands are in critical or depleted condition** as compared to the same species in the Northwestern Hawaiian Islands.¹ Another study recently published in the journal *Environmental Conservation* compared both healthy and degraded habitat and found that over-harvesting is the chief threat to popular reef fishes in the main Hawaiian Islands.²

There is particular concern for local populations of *uhu*, or parrotfish (family *Scaridae*), and other herbivorous fishes, many of which are depleted and appear to be targeted more heavily in recent years by commercial fishers. More scientific evidence points to the vital role herbivores play in maintaining reef health and to their positive impact on reducing the level of invasive algae. A 2007 study of Hawai'i Marine Life Conservation Districts and comparable fished areas published in *Marine Ecology Progress Series*, shows that reefs with abundant herbivorous fishes tend to have little or no problem with algal blooms, whereas reefs with few grazing fishes often have abundant seaweeds.³

We believe that the most important steps we can take to help restore fish populations are:

1. **Encourage responsible fishing** – Take what you need not what you can. Indiscriminate fishing methods, like lay gill nets and fishing on SCUBA, should be tightly controlled or banned.
2. **Support community-based marine management** – Help the communities across the state that are managing marine resources, working to ensure compliance with laws, and monitoring human use and biological change over time.
3. **Create replenishment areas for fish** – The process must be based on the best available science and credible local knowledge, involving fishers, local communities, scientists, and government. Examples include Maui's proposed herbivore replenishment area and the Fisheries Replenishment Areas on the Big Island.
4. **Strengthen enforcement capacity** – Everyone agrees that enforcement needs to be improved. Hawaii's enforcement capacity is underfunded and understaffed.
5. **Manage statewide threats** - Invasive species and land-based sources of pollution (*e.g.*, sewage injection wells, cesspools, illegal grading, stream channelization) are killing our reefs and must be reduced through statewide action and policy.

Hawaii's coral reefs generate more than \$350 million of income annually in recreation, fishing, aquarium capture, research and other uses. They provide for our unique way of life in Hawai'i, and are a source of sustenance as well as recreation. Taken together, the actions outlined above form a comprehensive program that will enable the State to turn the tide on reef degradation and begin to preserve the biological, cultural, and economic values of Hawaii's reefs.

¹ Friedlander, A.M., presentation at the International Coral Reef Symposium, July 2008.

² Williams, I.D., et al., *Assessing the importance of fishing impacts on Hawaiian coral reef fish assemblages along regional-scale human population gradients*. Environmental Conservation, 2008. **35**(3): p. 261-272.

³ Friedlander, A.M., E. Brown, and M.E. Monaco, *Defining reef fish habitat utilization patterns in Hawai'i: comparisons between marine protected areas and areas open to fishing*. Marine Ecology-Progress Series, 2007. **351**: p. 221-233.

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2009 2:47 PM
To: WTLTestimony
Cc: makaala@hawaiian.net
Subject: Testimony for HB1712 on 3/20/2009 3:00:00 PM

Testimony for WTL 3/20/2009 3:00:00 PM HB1712

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Makaala Kaaumoana
Organization: Individual
Address: Kilauea
Phone: 8088281205
E-mail: makaala@hawaiian.net
Submitted on: 3/18/2009

Comments:

I am engaged in the work of community advocacy including issues related to fishing. This bill is intended to stymie the work of communities engaged in the effort of community based fishery management. For communities considering the development of new rules as a community-based management tool, the requirement of stock assessments will stall the any recommendations and proposed rules for the foreseeable future. This bill also forces cokmunities to wait until the DLNR completes the required research into all the other possible impacts to fisheries. Finally, the bill requires ongoing monitoring to prove that the regulations are working, reducin the flexibility communities need to strengthen or relax regulations based on community-based monitoring. This bill does not support community based management, a successful and appropriate approach to resource management. Please kill this bill.

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair

NOTICE OF HEARING

DATE: Friday, March 20, 2009
TIME: 3:00 p.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Strong Support of H.B. 1712 HD2; Relating to Fishing

Good afternoon Chair Hee, Vice-Chair Tokuda, Honorable Members of the Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs. I am Roy Morioka, a retiree, fisherman and resident of Waialae-iki, Oahu. I strongly support this bill as I have testified through its hearings in the House committees since it seeks to insure that the department has followed the process and direction provided in Section 187A-2. Over these past four years, I have come before you and have consistently sought to have the department follow this section and provide the public with data it has collected and science it has conducted in developing proposed regulatory changes or rules and NOT simply rely on public opinion. I have also asked that the science and statistical data consider and include obvious direct and indirect impacts that have caused the need for a specific action and to include a mechanism to monitor the effectiveness of the action. To date my requests have fallen on deaf ears and I have been advised by leaders of the HDAR with the DLNR chairperson present, during a meeting with fishermen that “we have no authority to regulate and challenge other state departments and our authority is limited to regulating fishermen only.”

I sat incredulous and disheartened when the department entrusted with our state’s natural resources advised the public that it has no authority to challenge the actions of another state department whose actions may adversely affect the health and existence of our precious natural resources. I have looked to the department to be the lead advocate for the resource first and the source to advise the community as to what’s happening, whether it is good or bad for our natural resources. Is this strategy of using only fishing regulations to maintain the health and sustainability of our ocean resources short-sighted? Or, is it designed to eliminate commercial, recreational and subsistence fishing and designed to make our waters an aquarium? Something smells.

When will the department be held accountable and do its job as mandated? Each year there are several bills calling for the regulation of one ocean resource or another that is introduced by the legislature. Is this a RED FLAG that the department is failing to do its job? To further exacerbate the problem, the department when hearing of a concern conducts listening sessions to gather public sentiment and not science or data to determine the perceived condition of the resource and actions that should be taken. The recent sessions held throughout the state that were conducted for parrot fishes, goat fishes and jacks, did not present consistent information from the department, nor were the contents nor formats of these meetings consistent, and then we are told that the information gathered at these meetings will be used to develop regulations for these families of fish, I am dumbfounded. How does one develop consistent regulations after conducting a series of “apples and oranges” meetings to produce a cherry pie? Or it may be the process to say that it did go through the motions mandated. This does not say much for “transparency” in fisheries management.

Roy Morioka Senate Testimony HB1712, HD1
To be heard: 3:00 PM, March 20, 2009

To hear the head of the department testify before a house committee that it does not have the resources to properly conduct the science necessary to effectively manage the resources it is entrusted is another indicator that the system is broken. Then to hear that such science and data collection would require extending the studies to the Northwestern Hawaiian Islands (NWHI). Such a statement is bogus! For one, the coral reef ecosystem there is totally different from those of the main Hawaiian Islands as it is predator dominated, meaning little fish are at the pointed end of the pyramid of the hierarchy of fishes there. Additionally, the federal government has assumed the role of resource manager there for decades and conducts the science and data collection of the NWHI to better understand the nature to maintain the "pristine" conditions that exist. Further, the U.S. Fish and Wildlife Service has been the manager of Midway Island and have conducted numerous studies and data collection of the flora and fauna of that island ecosystem.

This then begs the question, what has this department been doing with the monies it has spent on monitoring coral reefs and their associated resources? Aren't fish a part of the coral reef ecosystem and an indicator of its health? Where do the reef fishes such as parrot fish, goatfish and jacks go when a reef is devastated by siltation, urban runoff, pollution, etc.? What happens to our native species when alien species invade their habitat? What happens when rivers and streams are diverted, hardened, or reduced? What happens when injection wells are constructed and its discharge percolated through the ocean? What happens when fertilizers and pesticides wash into the ocean after heavy rains or because of unchecked or broken irrigation problems? What happens when harbors are created and channels built? What happens when an artificial reef is constructed offshore from an existing reef? Is fishing really THE problem?

As a citizen of this state and one facing discrimination because I fish, I am seeking your support and action to cause the department to fulfill its mandated duties to its people and its ocean resources as described in Section 187A-2 before developing or changing fishing rules and regulations. If you find that the department is unable to fulfill these duties, then it is time to realign this function to one that can effectively do the job, or it may be time for the legislature to again assume the role of resource manager.

Thank you again for this opportunity to testify.

Respectfully,
Roy N. Morioka

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 19, 2009 8:19 AM
To: WTLTestimony
Cc: mjellings@hawaii.rr.com
Subject: Testimony for HB1712 on 3/20/2009 3:00:00 PM

Testimony for WTL 3/20/2009 3:00:00 PM HB1712

Conference room: 229
Testifier position: support
Testifier will be present: Yes
Submitted by: Carl Jellings
Organization: Individual
Address:
Phone:
E-mail: mjellings@hawaii.rr.com
Submitted on: 3/19/2009

Comments:

Aloha Senator Hee and Members Hope to be there in person to show my strong support for HB1712

Mahalo Carl P Jellings Sr

From: Ed Watamura [watamurae001@hawaii.rr.com]
Sent: Thursday, March 19, 2009 10:50 AM
To: WTLTestimony
Subject: H.B. 1712 HDI
Attachments: Kauai 2008-77.jpg; ATT00001.txt

Chair Oshiro, Vice-Chair Lee, Honorable Members of the House Committee on Finance,

Thanks you for your attention on this matter before you. My name is Edwin Watamura and I am the President of the Waialua Boat Club, the oldest Boat Club in the Hawaiian Islands. As their representative I would like to proclaim our strong support for this bill. We, for years, have been seeking accountability, through science and statistics, for actions taken by government entities, that impact the rights of fishermen. By choosing to regulate fishing without scientific and statistical research, the department is not addressing the possibility that there may be other causes, much greater in scope and impact, that may be affecting our natural resources. A good example of this, is the declining health of the reef ecosystem in certain parts of Maui. The coral there is being covered by growth that doesn't allow the sunlight to reach the coral and giving it the light it needs to maintain and sustain. I heard,,, the solution to this, is to limit the catching of certain varieties of fish that feed upon the algae and limu. Now, this does make logical sense and we can understand that limiting the catching of certain fish would alleviate some of the pressure to sustain the reef, but nowhere have we heard any mention of Maui's unique injection wells or the amounts of fertilizer runoff from the numerous golf courses that would also contribute to the extreme algae blooms that are causing this systemic problem.

When I was a young child and teenager, my uncle held the lease of the Menehene Fish Pond on Kauai. It was a vibrant pond, full of fish and Samoan Crab. Everyday, twice a day, they would open the gates to the pond and let in the flowing river water to the delight of the fish. The fish would gather at the gates and we would put in our bamboo poles and have the time of our life. There was so much Samoan Crab that we kept submerged wooden cages in the pond as a holding tank for all the crab we caught and we could dine on crab to our hearts content. The lease was paid for by the multitudes of mullet that lived in the pond and was harvested by my uncles. Given this scenario as a microcosm of a thriving ecosystem, the question of it's demise begs for an answer. Was it overfishing that killed the golden goose? The answer----an emphatic NO!! The answer was that pesticide runoff from the cane fields mauka of the pond flowed down into the water ways and killed everything in the pond. My uncles had to build a bonfire out of old tires as a base to burn all the dead fish that was floating on the pond surface. What a sad and poignant sight it was. Tears fills my eyes even now as I think about all the fun times we had and how it came to such an abrupt and horrible end.

1

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 19, 2009 11:12 AM
To: WTLTestimony
Cc: brent.a.carman@gmail.com
Subject: Testimony for HB1712 on 3/20/2009 3:00:00 PM

Testimony for WTL 3/20/2009 3:00:00 PM HB1712

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Brent Carman
Organization: Individual
Address: 73-1094 Hamanamana St Kailua Kona, HI
Phone: 989-4770
E-mail: brent.a.carman@gmail.com
Submitted on: 3/19/2009

Comments:

Thomas T Shirai Jr
P O Box 601
Waialua, HI 96791
Email: Kawahapai@hawaii.rr.com

Notice of Hearing
Friday, March 20, 2009
3:00 PM / State Capitol Conference Room 229

Senate Committee on Water, Land, Agriculture & Hawaiian Affairs (WTL)
Senator Clayton Hee (Chair) / Senator Jill N Tokuda (Vice Chair)

March 18, 2009

RE: Testimony Supporting HB 1712 HD2 (Relating to Fishing)

Aloha Chair Hee, Vice Chair Tokuda & Committee Members,

I'm a lifetime resident of *Mokule'ia*. I support HB 1712 HD2 because if we don't have measures like this in place, then there will be no tomorrow. The huge depletion started with the plantation era because those immigrants came from countries that didn't practice any form of conservation. Additionally the run off from the sugar and pineapple plantations contributed much to the destruction of nearshore reefs and habitats.

Eventually all ethnicities contributed to the depletion. Please add the *Kumu (White Saddle Goatfish)* to the contents of HB 1712 HD2. I believe this was one of the first to be a victim of this depletion. Attached to this testimony is an article I wrote for *Hawaii Fishing News (HFN)* which featured a depletion of over spearfishing at a *Kumu Ko'a (fishery)* at *Ka'ena* in 1957. The article's purpose was to connect yesterday with today however, I didn't mention the negative impact. It's hope that this legislation would be part of the *Ka'ena Point Advisory Committee*. It's disappointing that SB 1 (Relating to Opihi) that was introduced by Senator Hee was deferred in the House (WLO) because legislation like HB 1712 HD2 and SB 1 are for tomorrow. *Malama Pono*.

Thomas T Shirai Jr
Mokule'ia, Waialua

Ka'ena's Significance and Legacy

by Thomas T. Shirai Jr.



Taro farmer fisherman and master carpenter, David Peahi Keao Jr., repairs a lobster net in his front yard.

■ *Aloha*. I'd like to take the opportunity to share with everyone some of my family's stories that illustrate how significant the Ka'ena *ahupua'a* is from a seafood subsistence perspective. I will connect these stories of old with modern articles that were featured in past issues of *HAWAII FISHING NEWS*.

I had the privilege to be raised in Mokulei'a by my grandparents, David and Abigail Keao. Through them, I've learned much about my grandfather's *'ohana* and their relationship to the northwest coastline of Waialua, which encompasses Kamananui, Mokulei'a, Auku'u, Kawaihapai, Kealia and Ka'ena. The emphasis in this article will be on Ka'ena.

The Bishop Museum's 1933 publication entitled "Archeology of Oahu" by McAllister featured my grandfather's *kupuna* and grandmother Annie Keahipaka, who shared some family stories and knowledge of Waialua that included Ka'ena.

Hawaiian Stories of Ka'ena

The first story is a version of how Maui tried to unite O'ahu with Kaua'i. Excerpts from this publication are as follows:

"In a version told to me by Annie Keahipaka, Maui had many helpers tugging at the line. One disobeyed orders and looked back as Kaua'i was being drawn up to O'ahu. This caused the line to break and Kaua'i to slip back into the ocean, with only the fragment Pohaku O Kaua'i remaining, which is proof of Maui's mighty effort."

Also from "Archeology of Oahu," the next story mentions Ka'ena Point as an excellent fishing ground (*ko'a*): "At one time Maui was fishing at Ka'ena and caught a huge red fish (*kumu*) which he dragged from Pohaku O Kaua'i to Kuakala Hei'au and placed it there. The *menehune* found this *kumu* (goatfish) named *Kumunuiakea* and cut it into small pieces. Then when the sea covered the land (*Kaiakahinalii*), pieces of this fish went back to the ocean. Since then the *kumu* are small."

This part of the story means that this variety of fish never attained the size of *Kumunuiakea*; however, small *kumu* became abundant at Ka'ena.



Kalani Smith, Paul Akiona and Bing Chock stumbled onto a *kumu ko'a* in 1957 and speared 250 lbs of fish.

In 1994, *HFN* featured an article about three scuba divers who went spear fishing at Ka'ena Point, discovered a pristine *kumu ko'a* and caught a lot of this species of fish in 1957. The photo that accompanied this article displayed the fish caught. Judging by the photo, the average size appeared to be about 5 lbs.

Also from "Archeology of Oahu," the third story that I'd like to share is about a supernatural octopus (*kupua*) called *Kakahe'e* that lived at Ka'ena: "Pi'ikoi-a-ka-Alala and his father were on a canoe travelling to O'ahu where they planned on visiting his sister when Pi'ikoi-a-ka-Alala while still far from land sighted a huge octopus in a hole near where the sea washes ashore. He informed his father, took aim at *Kakahe'e* with his bow and arrow, letting it fly through the air and finally piercing *Kakahe'e*. They landed at Waiakaaiea and then proceeded to beat it to death. *Kakahe'e* met the same fate as *Kumunuiakea*, and thus creating an abundant *he'e* (octopus) *ko'a*."

The February 1994 issue of *HFN* featured a fisherman who had caught a large octopus at Ka'ena. Also, it's fitting that the current state record for largest octopus was caught at Ka'ena.

In the Bishop Museum's 1940 publication entitled "The Hawaiian Planter," my great-great-grandfather Kaaemoku Kakulu shared the name of a freshwater spring called *Ka'aie'a* located in the mountains just past Camp Erdman where sweepage from *Ka'aie'a* crossed the roadway and entered the ocean. There it created a small *mullwai* (headwater) where nutrients supply marine life with food and thus created an abundant seafood subsistence area (*ko'a*). Sweepage from *Ka'aie'a* made its way to the ocean up to 1998 when it was capped and never flowed again.

Family History

My grandparents and I would periodically go *holoholo* to Ka'ena to gather such delicious food as shellfish (*'opihi* and *pipipi*), seaweed (*limu kohu*), sea cucumber (*loli*), sea urchin (*wana*, *haukiuki* and *hawai*) and many others. They would make *pa'akai* (salt) on a parcel of land that his family owned at Ka'ena where this seafood subsistence gathering took place.



Stewart Matsunaga, bottom fishing in 250 feet of water outside Ka'ena Point when he got this 19-lb 1-oz tako.

Before I came along, my grandfather was a taro farmer and a fisherman who specialized in lobster fishing. He would paddle his canoe with my grandmother and uncle from a place he called *McInerny* (same store that was at *Ala Moana*) located on the shoreline at Auku'u, which is adjacent to Kawaihapai, and paddle to his fishing grounds. Ka'ena was one of his grounds. He learned these skills from his grandfather, Kaaemoku Kakulu, who was the last *konohiki* of Kawaihapai. The *McInerny* family allowed my grandfather to leave his canoe on the parcel that they owned during that time.

After catching the lobster, he would put them in 100-lb burlap bags and load them onto the train at Kawaihapai Station to be delivered to Kekaulike Market to a family that operated a fish stall. Later in the week, he would catch the train and pick up his money in Honolulu.

Although that era is gone, the names of places located within Ka'ena remain. I know there are others with similar stories that keep these places and memories of our *kupuna* alive.

I hope this has been informative. I am grateful to share some of my family's legacy that included Ka'ena.

Malama 'aina.

... Thomas

DLNR Holds Public Meeting To Discuss Evening Closure of Keawa'ula Section of Ka'ena Point State Park

"We want to address long-standing problems with illegal evening activities at the park, damage to natural resources and potential for injury to the public at a very isolated and remote area."

—DLNR Chairperson Peter Young

"We strongly disagree with denying fishers and families access to shorelines. This is an enforcement problem, not an access problem."

—Chuck Johnston

"I understand that the people at state parks are trying to find a way for the fishers to continue using the shoreline during the evening hours, yet cut down on crime."

—Clifford Inn



DAMIEN KENISON

Aloha, I represent our community in Hookena, South Kona, Hawaii Island. Our organization-KUPA- started because of conflicts with the aquarium fish collectors. The result of our participation in the process resulted in the formation of Fish Replenishment Areas along the Kona coast where aquarium collecting is prohibited. Marine biologist Bill Walsh has determined through years of studies that the fish stock has increased inside of the FRA's and fish have been migrating outside of the area resulting in pre-FRA harvesting reports from the collectors. The communities involved were determined and followed the process to resolve the conflict in an appropriate manner which has had a positive outcome for all stakeholders. HB1712 will entangle our efforts to assist with regulation through community involvement and have a negative impact on the marine resources.

I want to ask you a question; is it better to establish limits to harvesting through input from the people who live in the area and depend on fish and other marine life for subsistence purposes or should we continue the status quo and allow harvesting practices and methods which have had - according to statistics statewide - depleted the fish populations to a point where they may be unrecoverable in most areas?

Our culture and traditions depend upon the i'a. Without the i'a, opihi, a'ama, wana he'e, ula, limu, opelu, akule, etc. we cannot continue to pass on the traditions that identifies us as Hawaiians and gives our keiki the grounding influence that may help them to make appropriate choices in this changing world.

Please, do not support HB1712. It is easier to change rules that don't work than to repopulate barren reefs and shorelines.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 19, 2009 1:10 PM
To: WTLTestimony
Cc: octopus@maui.net
Subject: Testimony for HB1712 on 3/20/2009 3:00:00 PM

Testimony for WTL 3/20/2009 3:00:00 PM HB1712

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Rene Umberger
Organization: Individual
Address:
Phone:
E-mail: octopus@maui.net
Submitted on: 3/19/2009

Comments:

I oppose this bill because it is another attempt to block fishing regulations and put the blame for overfishing on anything but extraction. DLNR already doesn't do enough to protect marine resources: they don't have enough funding. This would only make it worse. Please don't pass this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 19, 2009 1:24 PM
To: WTLTestimony
Cc: JudyOnMaui@aol.com
Subject: Testimony for HB1712 on 3/20/2009 3:00:00 PM

Testimony for WTL 3/20/2009 3:00:00 PM HB1712

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Judy Epstein
Organization: Individual
Address:
Phone:
E-mail: JudyOnMaui@aol.com
Submitted on: 3/19/2009

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 19, 2009 1:48 PM
To: WTLTestimony
Cc: nharter@hotmail.com
Subject: Testimony for HB1712 on 3/20/2009 3:00:00 PM

Testimony for WTL 3/20/2009 3:00:00 PM HB1712

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Nancy Harter
Organization: Individual
Address: 1627 Lokia Street Lahaina, HI 96761
Phone: 808-661-0701
E-mail: nharter@hotmail.com
Submitted on: 3/19/2009

Comments:

It is essential that we carefully regulate fishing in Hawaii and we must not diminish the protection of our fishing resources by limiting the abilities of the DLNR.

TESTIMONY
HB1712, HD2
(END)