

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

**Wednesday, January 29, 2014
8:45 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1685
RELATING TO DESIGNATION OF A
COMMUNITY-BASED SUBSISTENCE FISHING AREA**

House Bill 1685 proposes to establish a subsistence fishing area at Ni'ihau out to one mile from shore. Commercial activities would be regulated and the harvesting of aquatic life would be limited within the subsistence fishing area. The Department of Land and Natural Resources (Department) supports the intent of this bill.

The Department is working on an administrative rule for Ni'ihau and would prefer that activities around Ni'ihau be managed through a rule rather than through a statute. The rule process allows for the development of a more comprehensive and detailed management scheme, would provide more discussion opportunities in the local communities, and enable the Department to amend the rules as the need arises. We believe that we already have the necessary legislative authorities to achieve the intent of this legislation.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
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



Association of Hawaiian Civic Clubs

P. O. Box 1135

Honolulu, Hawai'i 96807

Testimony of President Soulee Stroud

HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS

HB 1685 RELATING TO DESIGNATION OF A COMMUNITY-BASED SUBSISTENCE FISHING AREA

Wednesday; January 29, 2014; 8:45 am; Room 325

Aloha Madam Chair Hanohano, vice chair Cullen and members of the committee. The Association of Hawaiian Civic Clubs supports this bill that would establish a community-based subsistence fishing area and place restrictions on fishing the waters off the Island of Niihau.

The AHCC was involved in the Public Access to Shoreline Hawaii (PASH) decision of 1995 which prevented developers and landowners from closing off land access to the shoreline. The court said that Native Hawaiian Rights cannot be regulated out of existence by unreasonable or burdensome laws, permits or fees. The court also said that a Hawaiian tradition should balance the reasons for continuing it as long as it causes no harm to others.

Madam Chair, what is happening on Niihau is harmful to the natives there, and we respectfully ask that the legislature do something about it. This is that rare occasion where Hawaiians are on the land living a quiet, subsistence lifestyle and intruders are taking from them and claiming protection by the law. It seems to reverse the traditional and customary rights doctrine gained by Native Hawaiians.

We support consultation with the Niihau folks and other interested parties by the DLNR as a means to develop rules for the Niihau community-based subsistence fishing area. We further support that the rules be put into effect as soon as possible before the Niihau fishery is depleted.

Thank you for the opportunity to testify.

Contact: jalna.keala2@hawaiiantel.net



January 28, 2014

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

Mōhala i ka wai ka maka o ka pua
“Unfolded by the water are the faces of the flowers”

COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Rep. Faye P. Hanohano, Chair
Rep. Ty J.K. Cullen, Vice Chair

Rep. Cindy Evans Rep. Calvin K.Y. Say
Rep. Derek S.K. Kawakami Rep. Scott Y. Nishimoto
Rep. Chris Lee Rep. Richard Lee Fale
Rep. Nicole E. Lowen

NOTICE OF HEARING

DATE: Wednesday, January 29, 2014
TIME: 8:45 a.m.
PLACE: Conference Room 325
 State Capitol
 415 South Beretania Street

TESTIMONY IN OPPOSITION TO: HB1685, HB1686, HB1687, and HB1921

Chair Hanohano, Vice Chair Cullen and Members of the House Committee on Ocean, Marine Resources, and Hawaiian Affairs:

The Hawaii Fishermen’s Alliance for Conservation and Tradition, Inc. (HFACT) stands in **opposition** to the above noted bills as they have the potential to initiate similar bills throughout the State of Hawaii regarding marine resource management measures and potentially redefining the rights of private landowners with ocean front properties resulting in more and more loss of access to marine resources by citizens of the State of Hawaii..

We believe these bills were initiated in reaction to the press conference organized by the Robinson Family and not on the basis of sound science and prudent review of the science supporting claims of overfishing by non-residents, and consideration of existing management tools available to the State through the HRS Chapter 91 Administrative Rule Procedure.

The Department of Land and Natural Resources, specifically through the Division of Aquatic Resources, is well suited to the address the issue of marine resource management of the Ni’ihau area, and more importantly all of the marine waters of the State of Hawaii. Marine and fisheries

Hawai’i Fishermen’s Alliance for Conservation and Tradition, Inc.
P.O. Box 240813 Honolulu, HI 96824-0813

resource issues should follow a methodical process that includes public input from all stakeholders. This process should be led by DLNR with input from a wide group of stakeholders.

As such, we oppose these bills and recommend that they be tabled until such time that adequate scientific review, data analyses such as catch and effort are conducted and legal review by the State Attorney General completed. Until these analyses and other questions are adequately addressed and answered, there is inadequate grounds to move forward with these bills.

Additionally, there is also the need to define “community” as referenced in HB1685.¹ Who are members of the community? Community-based management may be viewed as a solution as it is presumed that the “community” supports whatever is being proposed but without understanding who the community represents, the initiative may not be in the best interest of the larger community. We have long understood that the State’s jurisdiction extends to the high water mark and those areas are deemed to be open to the public. We believe that these bills are contrary to the larger public interest.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "P. Fernandez", is written over a light yellow rectangular background.

Philip Fernandez, President

¹ HB1921 defines community as being an island with between 100 and 500 individuals obviously limiting the measure to the island of Ni’ihau.



HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

January 29, 2014, 8:45 A.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 1685

Aloha Chair Hanohano and Members of the Committee:

The Sierra Club, Hawaii Chapter, with over 12,000 dues paying members and supporters statewide, *supports* HB 1685. This measure would establish a community-based subsistence fishing area surrounding Niihau.

The island of Ni'ihau is dependent on the near shore fishery as a predominant source of food. As such, it can and should be treated differently than other coastal areas. To the extent commercial farming is the cause of significantly reduced fishing catches, the Sierra Club supports regulating this relatively small area of water so as to ensure the residents have enough food and are able to continue a long-standing cultural practice.

Mahalo for the opportunity to testify.



January 27, 2014

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

Mōhala i ka wai ka maka o ka pua
“Unfolded by the water are the faces of the flowers”

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The Hawaii Fishermen’s Alliance for Conservation and Management (HFACT) stands in opposition to the above noted bills as they have the potential to initiate similar bills throughout the State of Hawaii regarding marine resource management measures and potentially redefining the rights of private landowners with ocean front properties resulting in more and more loss of access to marine resources by citizens of the State of Hawaii..

We believe these bills were initiated in reaction to the press conference organized by the Robinson Family and not on the basis of sound science and prudent review of the science supporting claims of overfishing by non-residents, and consideration of existing management tools available to the State through the DLNR’s Chapter 91 Administrative Rule Procedure.

As such, we oppose these bills and recommend that they be tabled until such time that adequate scientific review, data analyses such as catch and effort are conducted and legal review by the State Attorney General completed. Until these analyses and other questions are adequately

Hawai’i Fishermen’s Alliance for Conservation and Tradition, Inc.
P.O. Box 240813 Honolulu, HI 96824-0813

addressed and answered providing a scientifically, statistically sound evaluation and legal position from which legislation can be proposed if required.

Additionally, there is also the need to define community as referenced in HB1685.¹ Who are members of the community? Community-based management may be viewed as a solution for it is presumed that the “community” supports whatever is being proposed but without understanding who the community represents, the initiative may not be in the best interest of the larger community. We have long understood that the State’s jurisdiction extends to the high water mark and those areas are deemed to be open to the public. How will these bills affect this?

Respectfully Submitted,

Stephen Lee, Vice-President

¹ HB1921 defines community as being an island with between 100 and 500 individuals obviously limiting the measure to the island of Ni’ihau.

ALOHA

MY NAME IS EDWIN RAY "A'ALONA" DELA CRUZ. I OPPOSE THIS BILL.

I AM FROM WAIMEA VALLEY KAUAI, BORN AND RAISED. FOR AS LONG AS I CAN REMEMBER, MY DAD AND HIS FRIENDS WOULD PLAN TRIPS ACROSS TO NI'HAU TO DIVE, FISH AND/OR PICK OPIHI. THIS WAS ALL WEATHER CONDITIONS PERMITTING. I ALWAYS LOOKED FORWARD TO THESE TRIPS, WELL THE ONES I WAS INVITED TO GO ALONG ON. THERE WASN'T ALWAYS ROOM FOR A LITTLE KID TO TAG ALONG. AS I GOT OLDER I GOT INVITED MORE OFTEN AS I WOULD BE MORE HELPFUL THAN IN THE WAY. AS AN ADULT I HAVE PLANNED TRIPS OF OWN MY WITH FRIENDS AS MY DAD DID DURING THE YRS OF MY YOUTH. A COUPLE YRS AGO I WAS ABLE TO TAKE MY DAUGHTER WITH US WHICH I KNEW SHE ENJOYED AS I DID WHEN I WAS HER AGE COMING ACROSS FOR THE FIRST TIME. SHE CONTINUOUSLY ASKS ME WHEN WE CAN GO AGAIN. WEATHER DOESN'T ALWAYS WORK WITH OUR SCHEDULE. SOMEDAY I'LL TAKE MY SON. I PERSONALLY TEACH BOTH MY DAUGHTER HI'ILEI (15) AND SON KAI AO (13) HOW TO DIVE, FISH AND PICK OPIHI. I ALSO TAKE ANY OF THEIR FRIENDS WITH US THAT HAVE THE DESIRE TO LEARN THIS ART AS I HAVE. JUST FOR THE RECORD I'M A RECREATIONAL DIVER, DIVING FOR SUBSISTENCE. FROM WHAT I UNDERSTAND ABOUT THIS BILL, IT'S TO PROTECT THE WATERS SURROUNDING THE ISLAND FOR SUBSISTENCE USE. WELL THAT IS THE MAIN REASON I GO THERE. ALSO THERE IS A POPULATION OF THIRTY (30) PEOPLE LIVING ON THE ISLAND. IS THERE REALLY NOT ENUFF FISH TO GO AROUND WITH THE FEW PEOPLE THAT HAVE BOATS LARGE ENUFF TO MAKE THE TRIP THERE AND BACK SAFELY. THIS TRIP ISN'T ONE THE CAN BE MADE REGULARLY, AS MOST PEOPLE THAT GO THEIR DON'T OWN LARGE BOATS. MOST OF THE PEOPLE LIVING THERE DON'T FISH OR DIVE. THIS IS COMING FROM FRIENDS AND OHANA THAT COME FROM NI'HAU. GROWING UP IN WAIMEA I REMEMBER SEEING THE FAMILIES OF NI'HAU SHOPPING AT ISHIHARA AND BIG SAVE SUPERMARKETS BUYING CASES AND PALETS OF SUPPLIES TO BRING BACK TO NI'HAU ON THE ROBINSON BARDGE THAT PERIODICALLY TRANSITS BACK AND FORTH BETWEEN KAUAI AND NI'HAU. ANOTHER COMMENT WAS MADE THAT THIS WAS BEING DONE TO PROTECT CULTURAL PRACTICES AND BELIEFS. PLEASE EXPLAIN TO ME HOW HELICOPTER TOURS, HUNTING AND FISHING EXPEDITIONS/ TOURS ARE CULTURAL. HUNTING OF ANIMALS NOT NATIVE TO THE ISLANDS. THESE ANIMALS WERE BROUGHT IN AND FARMED FOR THE EXOTIC HUNTING PURPOSES. AGAIN PLEASE EXPLAIN HOW THAT FALLS UNDER CULTURAL PRACTICES. ALSO EXPLAIN TO ME HOW MILITARY PRESENCE ON THE ISLAND IS CULTURAL. RADAR SYSTEMS, HELIPAD, AIRSTIP AND SPECIAL OPS TRAINING. AS AN INDIVIDUAL BORN AND RAISED ON THESE ISLANDS, I LIVE OFF THE OCEAN PARTIALLY AS A LIFESTYLE. I CAN GO ON AND ON ABOUT HOW I AM A NATIVE HAWAIIAN AND SUCH BUT I THINK THAT THIS IS MORE THAN JUST A HAWAIIAN THING. IT'S MORE OF A COMMUNITY (OCEAN USERS COMMUNITY) ISSUE. HOW WILL BILLS LIKE THIS PROTECT US AS KAUAIIANS FROM RESIDENTS OF ALL THE OTHER ISLANDS FROM UTILIZING OUR RESOURCES, AS WELL AS ALL THE ISLANDS FROM EACH

OTHER. GIVEN MORE NOTICE AND HEARING LOCATION ON KAUAI, WE WOULD HAVE A BETTER TURN OUT IN RESPONSE TO THIS ISSUE. THE FEW KAUAI FISHERMEN THAT GO ACROSS TO NI'HAU IS THE ONES MOSTLY EFFECTED BY THESE BILLS. MOST WERE UNAWARE AND OR UNABLE TO ATTEND THIS HEARING HERE ON OAHU DUE TO IT'S LOCATION. THIS HEARING SHOULD HAVE BEEN HELD ON KAUAI WHERE IT HAS THE BIGGEST IMPACT. THIS IS JUST MY OPINION. THAT WAY THE PEOPLE OF NI'HAU MAY ALSO VOICE THEIR OPINION ON THIS MATTER. ONCE AGAIN I OPPOSE THIS BILL. IF IT MAKES ANY DIFFERENCE, I AM A NATIVE HAWAIIAN.

MAHALO NUI LOA

EDWIN RAY "A'ALONA" DELA CRUZ

cullen2

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 24, 2014 1:39 PM
To: omhtestimony
Cc: teresamlee.51@gmail.com
Subject: Submitted testimony for HB1685 on Jan 29, 2014 08:45AM

HB1685

Submitted on: 1/24/2014

Testimony for OMH on Jan 29, 2014 08:45AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa L. Nakama	Individual	Oppose	No

Comments: I strongly oppose this bill, this violates my constitutional rights.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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cullen2

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, January 26, 2014 10:40 AM
To: omhtestimony
Cc: reiko1975@yahoo.com
Subject: Submitted testimony for HB1685 on Jan 29, 2014 08:45AM

Follow Up Flag: Follow up
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HB1685

Submitted on: 1/26/2014

Testimony for OMH on Jan 29, 2014 08:45AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
reiko muratake	Individual	Oppose	No

Comments: I Reiko Muratake appose to these bills HB1685, HB1686, HB1687 HB1707, HB1921

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HB1685
Testimony in opposition
Tony Costa – Hawaii Nearshore Fishermen

COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Rep. Faye P. Hanohano, Chair
Rep. Ty J.K. Cullen, Vice Chair

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NOTICE OF HEARING

DATE: Wednesday, January 29, 2014
TIME: 8:45 a.m.
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

HB1685

Testimony in Opposition.

Testimony

Hawaii Nearshore Fishermen are commercial nearshore fishermen and provide communities and markets the fresh nearshore caught seafood.

Hawaii Nearshore Fishermen are opposed to measures that prohibit their ability to continue to provide islanders with this wild caught and most important renewable and sustainable resource.

Niihau has provided hundreds of thousands of pounds of Akule annually – year after year, without a dent in biomass stocks. This resource has fed Niihauans, Kauai communities, and Oahu markets for over 70 years.

The importance of fresh nearshore caught species as seafood for islanders cannot be expressed enough.

Furthermore, there is no data that shows a causal relationship with commercial fishing or any fishing by outsiders in Niihau nearshore waters and lack of fish. In the contrary, by all our accounts fish stocks remain brilliantly healthy.

It is our opinion that HB1685 intentionally is setting up framework that would prohibit commercial fishing around the island of Niihau and as such we are most opposed to this measure.

HB1685

Testimony in opposition

Tony Costa – Hawaii Nearshore Fishermen

Unlike HB1687 which categorically prohibits commercial fishing of any kind within one mile of Niihau,

HB1685 seeks to “regulate” almost every aspect of fishing that commercial fishermen practice – redefining Niihau waters a “community based subsistence fishing area” and specifically calling for regulation on – any commercial activities, any issuance of commercial Marine fishing licenses, any aquarium permits, fishing with gill nets, fishing with scuba and spears, and, also leaves the door open for other restrictions that may come up citing “any other use or activity that the department, in consultation with the inhabitants of Niihau and other interested parties, deems appropriate.

HB1685 directs these narrow guidelines for establishing the rules of the area where by the department is directed to consult with “as broad a base as possible of inhabitants of the island of Niihau and other interested parties”

Fisheries management should be managed based upon both fishermen empirical observations and knowledge, along with stock analysis and other science based data.

Our feeling is that community based management schemes are problematic in that they are strongly opinion driven and not based upon sound resource measures.

Deference to one community for the sake of another has no place in Hawaii Fisheries management. Community based management schemes should tread very carefully when considering a public resource.

Additionally, it has shown that community based management divides communities and amplifies conflict as one community is empowered over another.

These discussions have shown and it is clear that commercial and recreational fishermen actively fish in the area proposed to be set aside for community based subsistence fishing area which may exclude them. This has brought forth the constitutional issue of equal and open access to the resources in the area to all residents of the State.

HNF are opposed to HB1685 and respectfully ask this measure be held.

Sincerely,

Tony Costa

cullen2

From: Mel <mdelacrz@hawaiiintel.net>
Sent: Sunday, January 26, 2014 4:09 PM
To: omhtestimony
Subject: House Bill 1685

Follow Up Flag: Follow up
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Aloha,
my name is Tadashi Muratake, and I oppose this Bill. As a fisherman of Hawaiian decent I find this Bill highly offensive. To take away such a large portion of my fishing grounds would be destructive to my family's survival. Further more there is still no hard data to support such a harsh measure. Questions like, how many people currently live on Niihau, how much fish do they consume annually, what is the fish population, what was the fish population five years ago, what is the impact on the fishery as a result of the state bringing monk seals from the Northwest Hawaiian islands to Niihau still need to be answered before making new rules that would have such a deep impact on so many people. Trying to protect the rights of one group of Hawaiians by stepping on the rights of other Hawaiians is not the answer. working together we can come up with a better solution. Mahalo,and Aloha.

Kawaihapai Ohana
c/o
Thomas T. Shirai Jr
P. O. Box 601
Waialua, HI 96791
Email: Kawaihapai@hawaii.rr.com

January 26, 2014

Committee on Ocean, Marine Resources, & Hawaiian Affairs
Representative Faye Hanohano, Chair
Representative Ty Cullen, Vice Chair

Notice of Hearing
Wednesday, January 29, 2014
8:45AM
Conference Room 325
State Capitol
415 South Beretania Street

Testimony Supporting HB 1685 (Relating to Designation of a Community Based Subsistence Fishing Area))

Aloha Chair Hanohano and Committee Members,

My name is Thomas T Shirai Jr and I'm the Po'o of the Kawaihapai Ohana which is a Recognized Native Hawaiian Organization (NHO) by the Department of Interior (DOI) and the Office of Hawaiian Affairs (OHA).

The Kawaihapai Ohana is in strong support of HB 1685 (Relating to Fishing) because it's preservation of subsistence resources for future generations because of the influx of outsiders encroaching upon the Niihau Community throughout the years. Other places such as Milolii and the Northwest Coastline of Waialua (Mokule'ia, Kikahi, Auku'u, Kawaihapai, Kealia & Ka'ena) have experienced this. The people of these places protected their resources from outsiders especially during the plantation era when immigrants brought their lack of conservation with them.

Some traditions of Kawaihapai Ahupua'a regarding subsistence gathering are listed below:

1. No outsiders were allowed to fish unescorted except for exception listed below.
2. If permission was granted, you were restricted to the method least impacting the resource which was pole fishing or shore casting of 2 poles.
3. Absolutely no netting, spear fishing or seaweed gather was permitted. You had to participate with them.
4. If you are from a specific geographical location, then that is the only area you gather subsistence and not encroach upon another community's resource.

5. Within the contents previously mentioned if the desired subsistence is unavailable then substitute or wait for availability
6. If insistence of a specific resource if desired, then purchase it from the store or trade.

Place names such as Nanakuli and Makaha define protection of subsistence resources. All of those mentioned above conform to the Kapu System with each area having their own specifications like amendments regarding legislation.

The Kawaihapai Ohana suggests amending HB 1687 to extend 1 mile to 3 miles off shore of Niihau as contained in previous testimony supporting HB 1685. This would also be parallel to the existing BRFA (Bottom Fish Restricted Fishing Area) off of Niihau and coastline contour of Niihau and further allow protection of deep water species for subsistence gathering.

Mahalo for the opportunity to provide testimony supporting HB 1685. Malama Pono.
Thomas T Shirai Jr – Po’o
Kawaihapai Ohana

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

January 26, 2014

Committee on Ocean, Marine Resources, & Hawaiian Affairs
Representative Faye Hanohano, Chair
Representative Ty Cullen, Vice Chair

Notice of Hearing
Wednesday, January 29, 2014
8:45AM
Conference Room 325
State Capitol
415 South Beretania Street

Testimony Supporting HB 1685 (Relating to Designation of a Community Based Subsistence Fishing Area)

Aloha Chair Hanohano and Committee Members,

I am a lifetime resident of Mokule'ia with lineage spanning several generations in Waialua. I'm currently serving on the North Shore Neighborhood Board 27 (Sub-District 1 Mokule'ia – Ka'ena Point) who is active in community and cultural concerns here in Waialua for a while. However, I'm testifying as an individual and member of the general public.

I'm in strong support of HB 1685 (Relating to Designation of a Community Based Subsistence Fishing Area) for the parallel purpose of HB 1685 (Relating to fishing) which is preservation of subsistence resources for future generations because of the influx of outsiders encroaching upon the Niihau Community throughout the years. Other places such as Milolii and the Northwest Coastline of Waialua (Mokule'ia, Kikahi, Auku'u, Kawaihapai, Kealia & Ka'ena) have experienced this. The people of these places protected their resources from outsiders especially during the plantation era when immigrants brought their lack of conservation with them.

Here in Mokule'ia, my Grandfather taught me the ways of the ocean and shared the following which I've continued throughout my entire life:

1. No outsiders were allowed to fish unescorted except for exception listed below.
2. If permission was granted, you were restricted to the method least impacting the resource which was pole fishing or shore casting of 2 poles.
3. Absolutely no netting, spear fishing or seaweed gather was permitted. You had to participate with them.
4. If you are from a specific geographical location, then that is the only area you gather subsistence and not encroach upon another community's resource.

5. Within the contents previously mentioned if the desired subsistence is unavailable then substitute or wait for availability
6. If insistence of a specific resource if desired, then purchase it from the store or trade.

Place names such as Nanakuli and Makaha define protection of subsistence resources. All of those mentioned above conform to the Kapu System with each area having their own specifications like amendments regarding legislation.

If passed and eventually enacted, it's hopeful that HB 1685 will have similar success with the community pilot project held at Mo'omomi on the Island of Molokai.

As previously mentioned, this legislation special to me because my Great-Great-Great Grandfather was born and from Niihau therefore I want to kokua the Niihau Community by sending in testimony supporting HB 1685 (Relating to Fishing). Thank you for your time.

Malama Pono.

Thomas T Shirai Jr

Mokule'ia, Waialua

cullen2

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 27, 2014 6:42 PM
To: omhtestimony
Cc: rjsilvalution@gmail.com
Subject: Submitted testimony for HB1685 on Jan 29, 2014 08:45AM

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HB1685

Submitted on: 1/27/2014

Testimony for OMH on Jan 29, 2014 08:45AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robbie Silva Jr	Individual	Oppose	No

Comments: I oppose HB 1685 because I've been a fisherman my whole life and I am native Hawaiian .As a native Hawaiian I should be able to fish anywhere in the state of Hawaii because it is our gathering rights.

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Sent: Saturday, January 25, 2014 11:39 PM
To: omhtestimony
Cc: iamaki66@gmail.com
Subject: Submitted testimony for HB1685 on Jan 29, 2014 08:45AM

HB1685

Submitted on: 1/25/2014

Testimony for OMH on Jan 29, 2014 08:45AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ian Amaki	Individual	Oppose	Yes

Comments: Aloha my name is Ian Amaki and I was born an raised on the island of Kauai. I grew up on the ocean fishing an diving and was taught to never over fish or take more then was need to feed my family. My dad always taught me to spread my fishing grounds so the fish could replenish in all areas an Niihau is one of those few spots that I go so the fish can repopulate. Fishing is a way of life for us Hawaiians. It's in our culture and our blood. All my family were all fishermen an learned to live off the land. With the high expense of owning a boat and the cost of fuel and gear I can't go to Niihau often but when I do it's always a great family experience; therefore, I oppose bill hb1685. Why would two miles off the shore be closed when Hawaiians on that island do not own a boat to operate off the shore?

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cullen2

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 28, 2014 3:39 PM
To: omhstestimony
Cc: mitchel@navatekltd.com
Subject: Submitted testimony for HB1686 on Jan 29, 2014 08:45AM

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HB1686

Submitted on: 1/28/2014

Testimony for OMH on Jan 29, 2014 08:45AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mitchel Kagawa	Individual	Oppose	No

Comments: I Strongly Oppose this legislation! These "nearshore" areas and resources are state lands and should be accessible to ALL residents in the state of Hawaii. Residents of one island can not claim sole right to the resources from that island. If you intend to pass this legislation then I would also ask that you pass legislation stating that only residents of Oahu shall be able to surf the waves on Oahu, only residents of the Big Island are able to visit Hawaii Volcanoes National Park, and Only residents of Kauai are able to drink water that rains down on Mt. Waialeale! This legislation makes NO sense! Kill this bill and kill HB1685! Sincerly, Mitchel Kagawa

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cullen2

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 28, 2014 8:23 PM
To: omhtestimony
Cc: kssakuda@yahoo.com
Subject: Submitted testimony for HB1685 on Jan 29, 2014 08:45AM

Follow Up Flag: Follow up
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HB1685

Submitted on: 1/28/2014

Testimony for OMH on Jan 29, 2014 08:45AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Sakuda	Individual	Oppose	Yes

Comments: The Robinson Family already owes millions in unpaid real estate taxes. this is driven by the Robinson Family and NOT on behalf of the 2 or 3 dozen people who live on Niihau. Any statement by a person or a family member living on Robinson Land causes the Robinson family to revoke Plantation Access including the subsidised housing that the Robinson Plantation provides. I FULLY oppose this as this will close off too much area to Kauai's Fishing population including many of which who are of Hawaiian Ancestry as well. This bill is like saying even if you are Hawaiian you are not allowed to fish Niihau waters. Lets be honest how many poeple really live on Niihau? how many are active enough to fish? Do you need the entire island of 26 miles out to 2 miles closed-off to the rest of Hawaii???

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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cullen2

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HB1685

Submitted on: 1/29/2014

Testimony for OMH on Jan 29, 2014 08:45AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kahea	Individual	Support	No

Comments: Aloha mai, I am in support of the intent of the bill to create a community-based subsistence fishing reserve. I am humbly requesting the following amendments: 1) Section 1a, line item 2: extend the boundary from one mile to at least two miles off shore. 2) Section 1b, line items 1 through 5: Policies are to be dictated by Niihau residents and enforced by the department. 3) Section 1c: The rules for subsistence fishing shall be determined by Niihau inhabitants. 4) Section 1c, line items 1 through 4: These are unnecessary at the moment as they are to be initiated by Niihau inhabitants. Mahalo for your consideration of my requests to amend this bill

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HOUSE BILL 1685

Dear Senators and Representatives,

I am submitting this testimony on the behalf of myself, Stanwood Kanna, Carol Kanna, George Kanna and Ross Young.

We are opposed to HB 1685

Although we do recognize the need for ocean management, we disagree that the ocean area, 1 mile around Niihau should be exclusive to the residence. Many families living in the communities of Kauai have been there for generations relying on the resources generated by the ocean. Niihau has been for generations an area of resource for both Niihau communities and communities on Kauai. For generations the fishermen of Kauai have respected the island of Niihau and its people. Why should all fishermen be punished for the trespasses of a few. There should never be an exclusionary right or zone established anywhere in the main Hawaiian islands that prohibits fishing rights. Conservation, management, and determination of aquatic resources should not be in the control of individuals or communities who, by choice, live where they want to.

Where would the resources for enforcement of these laws come from? We have many laws that regulate the Hawaii aquatic resources and the enforcement of these laws are ineffective because of the inadequate funds and limited manpower. Again, what always happens when these last minute, personal interest bills are delivered there is much emotion and separation within the communities that produce nothing but ill feelings. There is a solution to all situations or conditions if we work to solve the problem and not exclude.

We have not seen or heard from of any meeting to discuss these bills or even the issues that initiated these bills which is shocking at the thought and saddens us that we are rushing to save our generations of culture and our way of life.

Please stop this Bill until more communication is heard.

Thank you for your support,

Jacqueline K Kanna
Stanwood H Kanna
Carol T Kanna
George K Kanna
Ross R Young

Before the House Committee on
Ocean, Marine Resources and Hawaiian Affairs

Wednesday, January 29, 2014
8:45 A.M.
State Capitol, Conference Room 325

In Support H.B. 1685
RELATING TO DESIGNATION OF A COMMUNITY-BASED SUBSISTENCE
FISHING AREA

Aloha Chair Hanohano, Vice-Chair Cullen and Members of the Committee on Ocean, Marine Resources and Hawaiian Affairs,

House Bill 1685 establishes the Ni'ihau community-based subsistence fishing area to restrict fishing in the waters off Niihau.

On behalf of my 'ohana, community members and those who feel that the protection of the natural resources for Niihau should be protected for the Hawaiians who live there, We **SUPPORT** House Bill 1707.

Respectfully yours,

Les Kuloloio, Moku O Kanaloa
Phone: 808-281-7652
Email: pokaiuli@yahoo.com

Before the House Committee on
Ocean, Marine Resources and Hawaiian Affairs

Wednesday, January 29, 2014
8:45 A.M.
State Capitol, Conference Room 325

In Support H.B. 1685
RELATING TO DESIGNATION OF A COMMUNITY-BASED SUBSISTENCE
FISHING AREA

Aloha Chair Hanohano, Vice-Chair Cullen and Members of the Committee on Ocean, Marine Resources and Hawaiian Affairs,

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On behalf of my 'ohana, community members and those who feel that the protection of the natural resources for Niihau should be protected for the Hawaiians who live there, We **SUPPORT** House Bill 1707.

Respectfully yours,

Kamalu Poepoe, Moloka'I Pule O'o
Phone: 808-646-0397
Email: karenpoepoe@yahoo.com

Before the House Committee on
Ocean, Marine Resources and Hawaiian Affairs

Wednesday, January 29, 2014
8:45 A.M.
State Capitol, Conference Room 325

In Support H.B. 1685
RELATING TO DESIGNATION OF A COMMUNITY-BASED SUBSISTENCE
FISHING AREA

Aloha Chair Hanohano, Vice-Chair Cullen and Members of the Committee on Ocean, Marine Resources and Hawaiian Affairs,

House Bill 1685 establishes the Ni'ihau community-based subsistence fishing area to restrict fishing in the waters off Ni'ihau.

On behalf of my 'ohana, community members and those who feel that the protection of the natural resources for Ni'ihau should be protected for the Hawaiians who live there, We **SUPPORT** House Bill 1707.

Respectfully yours,

Thomas Hashimoto, Manokalanipo
Phone: 808-652-0720
Email: Thomas.hashimoto@hotmail.com

Before the House Committee on
Ocean, Marine Resources and Hawaiian Affairs

Wednesday, January 29, 2014
8:45 A.M.
State Capitol, Conference Room 325

In Support H.B. 1685
RELATING TO DESIGNATION OF A COMMUNITY-BASED SUBSISTENCE
FISHING AREA

Aloha Chair Hanohano, Vice-Chair Cullen and Members of the Committee on Ocean, Marine Resources and Hawaiian Affairs,

House Bill 1685 establishes the Ni'ihau community-based subsistence fishing area to restrict fishing in the waters off Niihau.

On behalf of my 'ohana, community members and those who feel that the protection of the natural resources for Niihau should be protected for the Hawaiians who live there, We **SUPPORT** House Bill 1707.

Respectfully yours,

Piilani Kaawaloa, Moku O Keawe
Phone: 808-896-4172
Email: punatita7@yahoo.com

Testimony of Winnie Basques

Before the House Committee on
Ocean, Marine Resources and Hawaiian Affairs

Wednesday, January 29, 2014
8:45 A.M.
State Capitol, Conference Room 325

In Support H.B. 1685
RELATING TO DESIGNATION OF A COMMUNITY-BASED SUBSISTENCE
FISHING AREA

Aloha Chair Hanohano, Vice-Chair Cullen and Members of the Committee on Ocean, Marine Resources and Hawaiian Affairs,

House Bill 1685 establishes the Ni'ihau community-based subsistence fishing area to restrict fishing in the waters off Niihau.

On behalf of my 'ohana, community members and those who feel that the protection of the natural resources for Niihau should be protected for the Hawaiians who live there, We **SUPPORT** House Bill 1707.

Respectfully yours,

Winifred Basques, Nana'I Kaula (Lana'i)
Phone: 808-215-1101
Email: Winnie@aloha.net

Testimony of Rocky Kaluhiwa

Before the House Committee on
Ocean, Marine Resources and Hawaiian Affairs

Wednesday, January 29, 2014
8:45 A.M.
State Capitol, Conference Room 325

In Support H.B. 1685
RELATING TO DESIGNATION OF A COMMUNITY-BASED SUBSISTENCE
FISHING AREA

Aloha Chair Hanohano, Vice-Chair Cullen and Members of the Committee on Ocean, Marine Resources and Hawaiian Affairs,

House Bill 1685 establishes the Ni'ihau community-based subsistence fishing area to restrict fishing in the waters off Niihau.

On behalf of my 'ohana, community members and those who feel that the protection of the natural resources for Niihau should be protected for the Hawaiians who live there, We **SUPPORT** House Bill 1707.

Respectfully yours,

Rocky Kaluhiwa, Moku O Kakuhihewa
Phone: 808-286-7955
Email: rockyfromhecia@aol.com

Testimony of Bruce and Leiana Robinson

LATE

Before the House Committee on
Ocean, Marine Resources and Hawaiian Affairs

Wednesday, January 29, 2014
8:45 A.M.
State Capitol, Conference Room 325

In Support H.B. 1685 WITH AMENDMENTS RELATING TO DESIGNATION OF A COMMUNITY-BASED SUBSISTENCE FISHING AREA

Aloha Chair Hanohano, Vice-Chair Cullen and Members of the Committee on Ocean, Marine Resources and Hawaiian Affairs,

House Bill 1685 establishes the Ni'ihau community-based subsistence fishing area to restrict fishing in the waters off Niihau.

On behalf of the Native Hawaiian residents and the Konohiki of Ka Aina O Kawelonakala, more commonly known as Niihau, we thank you for the opportunity to give you our mana'o on this bill as it relates to our island. As you know, the residents of Niihau live as our native ancestors did, in harmony with nature, the land and the sea. We survive on the bounty of the ocean, and what we can grow ourselves. Opihi and fish is a staple for us – we have no modern conveniences such as stores where we can purchase our food. We grow it, we gather and we fish. Opihi is a major part of our food staples.

We believe in sustaining our resources and follow our strict traditional seasonal system where we allow the resources to recover, spawn and reproduce. Following that system, we have always had enough to sustain our village and our people. However, in recent years, people who do not belong to Niihau have decimated our resources and we have had to appeal to our legislators for kokua.

We **SUPPORT** House Bill 1707 with the following amendments:

Page 1, Line 10, Section 1 (2): An irregular line ~~one-mile~~ **two miles** off shore that is parallel to the contours of the shoreline.

(Justification: The traditional fishing practices of Niihau include subsistence fishing that can go further out to sea than one-mile depending on the seasons and species of fish.)

Page 1, Under line 16, insert **(a) To preserve the culture and traditions of the Niihau people, all vessels should be banned including but not limited to tour boats, vessels, jet skis, surfboards, kayaks, zodiacs, and all other types of pleasure and recreation crafts subject to Section b with the exception of any type of water craft, including surfboards belonging to a person domiciled on Niihau, and any Niihau Ranch vessel will be permitted.**

(Justification: 187A-1 defines commercial purpose only as being "the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, landed, or transported for sale anywhere in the State." The amendment addresses all others not included in 187-A1 such as recreation and pleasure craft that do not fit the description as listed under definitions in the Act.

Page 2, Lines 11 through 14 shall read: "(c) The Department, as soon as practical, shall consult with as broad a base as possible of inhabitants of the island of Niihau **and the konohiki** to establish the rules for the Niihau community-based subsistence fishing that are to include: "

(Justification: The Konohiki or Niihau are, and have always been the owners of the island who are directly descended from the original owners, the Sinclairs who purchased the island from King Kamehameha V in 1864. One of the conditions of the sale was that the Sinclairs and their descendants would always protect, sustain and care for the welfare of the Native Hawaiian inhabitants of Niihau and their descendants as well as the natural and cultural resources of the island.)

Page 2, Lines 18 through 18 shall read:" (1) a determination of fishing practices that are customarily and traditionally exercised **by Niihau residents domiciled on Niihau** for purposes of native Hawaiian subsistence, culture, and religion in the fishing area;"

With the amendment stated above, we, as Konohiki and residents of Niihau; and as direct descendants of the original inhabitants of the island dating from 1864, support House Bill 1685 and ask that this committee pass this bill with the amendments as stated.

Mahalo for your consideration. The undersigned are all 'ohana, residents and supporters of Niihau.

Respectfully yours,

Leiana and Bruce Robinson
Ka Aina O Kawelonakala
Phone: 808-335-3500
Email: niihauisland@hawaiian.net

PART I. GENERAL PROVISIONS

§187A-1 Definitions. As used in this subtitle, unless the context indicates otherwise:

"Aquaculture" means the propagation, cultivation, or farming of aquatic plants and animals in controlled or selected environments for research purposes, commercial purposes, or stocking purposes.

"Aquatic life" means any type or species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animal that inhabits the freshwater or marine environment and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds, roots, products, and other parts thereof.

"Board" means the board of land and natural resources.

"Commercial marine dealer" means any person who sells or exchanges, or who is an agent in the transfer of marine life obtained directly from a commercial marine licensee, or any commercial marine licensee who sells or exchanges marine life at retail.

"Commercial marine license" means a license issued to take marine life within or outside the State for commercial purpose.

"Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 189-2.

"Commercial purpose" means the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, landed, or transported for sale anywhere in the State.

"Department" means the department of land and natural resources.

"Fishing" or "to fish" means catching, taking, or harvesting, or attempting to catch, take, or harvest, aquatic life. The use of a pole, line, hook, net, trap, spear, or other gear which is designed to catch, take, or harvest aquatic life, by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be caught, taken, or harvested, shall be deemed to be fishing.

"Harvest" means the taking and retaining of marine life by any means whatsoever.

"Marine life" means any type or species of saltwater fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweeds or other marine plants, including any part, product, seed, or root thereof.

"Qualified aquaculturist" means a person, or association of persons, actively engaged in aquaculture farming, aquaculture produce processing, or aquaculture product development activities.

"Shark" means any member of the class Chondrichthyes, including but not limited to: inshore species of galapagos shark

(*Carcharhinus galapagensis*), reef blacktip shark (*Carcharhinus melanopterus*), gray reef shark (*Carcharhinus amblyrhynchos*), big-nosed shark (*Carcharhinus altimus*), tiger shark (*Galeocerdo cuvier*), blacktip shark (*Carcharhinus limbatus*), smooth hammerhead shark (*Sphyrna zygaena*), reef whitetip shark (*Triaenodon obesus*), scalloped hammerhead shark (*Sphyrna lewini*), sandbar shark (*Carcharhinus plumbeus*), offshore species of white shark (*Carcharodon carcharias*), shortfin mako shark (*Isurus oxyrinchus*), silky shark (*Carcharhinus falciformis*), blue shark (*Prionace glauca*), whale shark (*Rhincodon typus*), thresher shark (*Alopias vulpinus*), oceanic whitetip shark (*Carcharhinus longimanus*), cookie cutter shark (*Isistius brasiliensis*), and megamouth shark (*Megachasma pelagios*). [L 1985, c 94, pt of §1; am L 1991, c 160, §§1, 4; am L 2000, c 277, §3; am L 2001, c 177, §2]

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Gungelymu Kuu Karatek
 Mefun Kauwile Pahulehua
 Daini Noko Pahulehua
 Yanani Shintani
 Haup Karahela
 of No Keokelaui SR
 elan Kauwile Pahulehua
 Rhoads S Pahulehua
 mylan N. Karahela
 elana H. Karahela
 kana L. Karahela
 fany K. Karahela
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 atis K. Karahela
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 methu Shintani SR

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Melweenella Kalinuwapuhimake Kalani Kanahale

Jay-Jeen Naomialeha Kalani Niacy

Stuart K. Shintani

Jade Pohaikealoha Kanahale

Byron K. Kanahale

Melody Leinuwapuhi Kahale

Laura K. Pehulehua

Trace K. Shintani

Amira Lolama Beniamina

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Kelly W. Kahokulua

~~Sam Kahalehewa~~

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David Kelly

David K. Nian

Yvonne n

Wilbert Kachelauki

David Kachelauki

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Joni Niou Makaweli HI, 96769

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Deora N Niou Makaweli HI 96769

~~John H Niou~~

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 Corey Shurtan Kekaha Hi 96752
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Mary Ann Kanohi

Mahealani

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Mapuana Benjamin

Rosana Benjamin

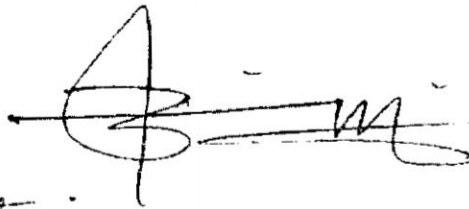
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~~Janine Ariau~~

Janine Ariau

Billy Niam



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Wai Karake
 Mary Lou Karake
 Aunt Karake Sr
 Cheryl Mae
 Hui Kelly

HB1685

Bke/ymn

Brianne Kanahele

Keera Beniamina

Lana Niau

Triston Kanahele

Jarus Kanahele

Britton Kanahele Gexodo

Jave Kanahele

Quana P. Pa

Jonah Kelly

Gilbert Kachelauiii

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