

**SB 2579**

DAVID Y. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
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Testimony of  
**SUZANNE D. CASE**  
Chairperson

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

Wednesday, February 17, 2016  
2:45 AM  
State Capitol, Conference Room 224

In consideration of  
**SENATE BILL 2579**  
**RELATING TO FISHING ON THE NORTH COAST OF MOLOKA'I**

Senate Bill 2579 proposes to designate certain state waters surrounding the north coast from Kalaupapa to Halawa on the island of Moloka'i as the Moloka'i Community-Based Subsistence Fishing Area. **While the Department of Land and Natural Resources (Department) supports the concept of community based co-management, we oppose this measure.**

The Legislature authorized the department to establish community based subsistence fishing areas in 1994 under Section 188-22.6, Hawaii Revised Statutes. We have been working with the Molokai community at Mo'omomi and continue to work with this community on this issue. While the bill is addressing a different area, we are developing a process that all communities can follow. We ask this committee to allow the Department to continue its community process pursuant to the intents and authorities the legislature has already provided us.

We believe this measure is unnecessary as we are already in discussions with a number of communities on subsistence fishing areas (SFA), we already have the statutory authority to create these SFA's, and we have developed a guidebook that details the process to establish them. We understand that some in the community are dismayed with the slow pace of progress, but the Department has to be deliberative in its process to ensure that all public interests are considered.

Lastly, we are concerned that the measure proposes types of regulations that are still yet to be discussed in the community. The prescriptive language in this measure may result in regulations being made that the community does not understand or support.

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON P.E.  
DEPUTY DIRECTOR - WATER

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



**SB2579**

**RELATING TO FISHING ON THE NORTH COAST OF MOLOKA‘I.**

Senate Committee on Water, Land, and Agriculture

February 17, 2016

2:45 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB2579, which seeks to better empower kīpuka communities in North Moloka‘i, to guide the management of the nearshore resources that inform their cultural traditions, values, and way of life.

**Community-based fisheries management can help sustain Hawai‘i’s nearshore resources, and perpetuate the cultural lifestyles and values that depend upon them.** OHA appreciates the intent of this measure, in demonstrating the Legislature’s continued support of community-based fisheries management, particularly for the subsistence-dependent island of Moloka‘i.

Community-based fisheries management has long been cited as a key component in sustainably managing our ocean resources, which are currently open to exploitation by the general public, and are typically subject to generic regulations of questionable sufficiency.<sup>1</sup> This management approach relies in part upon subsistence, “kīpuka” communities’ intimate knowledge of and concern for the nearshore resources in their area, to guide the establishment of sustainable, place-specific harvesting practices. In recognition of the potential for community-based management to address the continuing decline of our nearshore resources, while also perpetuating Hawai‘i’s cultural traditions and values, the Legislature authorized the Department of Land and Natural Resources to work with traditional subsistence communities in establishing “community based subsistence fishing areas” (CBSFAs) and rules over 20 years ago.

However, notwithstanding the long-standing authority given to the Department, as well as the diligent efforts of subsistence communities in many areas of the state, rules have now been established for only a single CBSFA, on the island of Kaua‘i.

This measure may provide the legislative encouragement needed for the adoption of a community-based management approach for Moloka‘i’s north shore fisheries. With the looming impacts of climate change, population growth, and the mounting pressures on our limited nearshore resources, the need to more proactively explore community-based fisheries management throughout our islands is greater now than ever before. For the island of Moloka‘i, where subsistence fishing, hunting, and gathering provide for a substantial

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<sup>1</sup> See, e.g., Wayne Tanaka, *Ho‘ohana aku a Ho‘ōla aku: First steps to averting the tragedy of the commons in Hawai‘i’s nearshore fisheries*, 10 ASIAN PACIFIC LAW AND POLICY J. 235 (2008) available at [http://blog.hawaii.edu/aplpj/files/2011/11/APLPJ\\_10.1\\_tanaka.pdf](http://blog.hawaii.edu/aplpj/files/2011/11/APLPJ_10.1_tanaka.pdf).

proportion residents' daily diets, this need may be particularly acute. Fortunately, the deep traditional knowledge and values still possessed by some Moloka'i residents regarding their nearshore resources may greatly increase the chances of success for a CBSFA approach. The rulemaking actions required under this measure may therefore be critical to maintaining and perpetuating the health of Moloka'i's nearshore resources, as well as the subsistence communities, traditional lifestyles, and cultural values that depend on them.

OHA notes that this measure should be amended to more properly reflect the role of administrative "rules," which generally describe prohibited and permitted conduct, and that of a "management plan," which contains additional components including internal agency matters and planning provisions that do not affect the rights of the public. Insofar as a management plan encompasses such non-regulatory matters, it is not appropriate for promulgation as a "rule" subject to the chapter 91 rulemaking process, as suggested by subsection (c). In addition, OHA recommends providing express rulemaking authority regarding non-fishing activities, such as thrill craft riding in sensitive areas, which may nevertheless directly impact traditional and customary practices or subsistence resources. Accordingly, OHA urges the Committee to amend subsection (c) beginning on page 4, line 12, to read as follows:

(d) The department of land and natural resources, as soon as practicable, shall consult with as broad a base as possible, group of inhabitants of the island of Moloka'i and other interested parties to establish rules for the Moloka'i community-based subsistence fishing area, to include but not be limited to:

- (1) Limits on the harvest of aquatic life, as those terms are defined in section 187A-1, in the fishing area;
- (2) Limits on other activities that may disturb, degrade, or alter the marine environment, or that may directly interfere with harvesting or gathering practices or subsistence resources, including but not limited to boating and other non-extractive activities; and
- (3) The establishment of no harvesting, no fishing, or

other limited use zones within the area, if  
appropriate.

Therefore, OHA urges the Committee to **PASS WITH AMENDMENTS** SB2579. Mahalo  
nui for the opportunity to testify on this measure.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Subject:** Submitted testimony for SB2579 on Feb 17, 2016 14:45PM  
**Date:** Wednesday, February 17, 2016 4:40:39 AM

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**SB2579**

Submitted on: 2/17/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kalae Tangonan	Molokai Ohana	Support	No

Comments: I am in support of protecting Molokai's Prestine backside from East Kalaupapa to Halawa back East side as a subsistence fishing zone. It will restrict any outsiders from fishing within a two mile distance from shore. I need this zone to feed my Moloka'i family! Once again I support SB2579. This is protection of our resources for future generations of Molokai.

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Aloha Senator's Mike Gabbard & Clarence K. Nishihara

RE: SB 2579

Tuesday/02-17-16

2:45 PM/Room 224

My name is Brent Keliokamalu Nakihei born and raised in Kalamaula, Molokai. I am a Pure Hawaiian representing my children, grandchildren and great-grandchildren to the tenth power. I am testifying in support of SB 2579 for the designation of certain state waters surrounding the north coast from Kalaupapa to Halawa head of the island of Moloka'i as the Molokai Community-Based Fishing Area. As a subsistence-gatherer, I can only hope these areas will continue to flourish in abundance for our children's survival and the next generation to come.

In closing, I am in support for SB 2579 and passing of this bill will perpetuate the "Aina Momona" or "Abundant Land" legacy of our Kupuna.

Mahalo,

Brent Keliokamalu Nakihei

[bnakihei@gmail.com](mailto:bnakihei@gmail.com)

Ph: (808) 213-4858

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**Subject:** Submitted testimony for SB2579 on Feb 17, 2016 14:45PM  
**Date:** Monday, February 15, 2016 8:28:14 PM

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**SB2579**

Submitted on: 2/15/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Edwin Watamura	Individual	Oppose	No

Comments: The establishment of any CBSFA is premature at this time. The template for CBSFA's have not been developed. As it stands it is divisive and leaves the situation open to vigilante enforcement. There have already been incidents that have resulted in criminal activities. The definition of community needs to be established and all stakeholders need to be included in the conversation.

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**From:** [Georgia Welch](#)  
**To:** [gabbard2 - Donna](#)  
**Subject:** SB2579 restricting fishing on Molokais north shore  
**Date:** Tuesday, February 16, 2016 7:50:44 PM

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To whom it may concern,  
I do not support this bill restricting fishing on the north shore of Molokai. I feel the entire community on Molokai concurs equally. Please do not support this, thank you.  
G.Welch  
Molokai resident

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**Date:** Tuesday, February 16, 2016 2:38:22 PM

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**SB2579**

Submitted on: 2/16/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Keali'i Inciong	Individual	Support	No

Comments: February 16, 2016 Re: Support of SB 2579 RELATING TO FISHING ON THE NORTH COAST OF MOLOKA'I Dear Senators and Committee, I would like to strongly Support SB2579 That designates certain state waters surrounding the north coast from Kalaupapa to Halawa head of the island of Moloka'i as the Moloka'i Community-Based Fishing Area. Thank you for your time and consideration. Mahalo & Sincerely, Jon Keali'i Inciong MSW Student

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**Date:** Wednesday, February 17, 2016 4:40:39 AM

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**SB2579**

Submitted on: 2/17/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kalae Tangonan	Molokai Ohana	Support	No

Comments: I am in support of protecting Molokai's Prestine backside from East Kalaupapa to Halawa back East side as a subsistence fishing zone. It will restrict any outsiders from fishing within a two mile distance from shore. I need this zone to feed my Moloka'i family! Once again I support SB2579. This is protection of our resources for future generations of Molokai.

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**Date:** Wednesday, February 17, 2016 7:57:41 AM

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**SB2579**

Submitted on: 2/17/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Leimomi Khan	Individual	Support	No

Comments:

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**SB2579**

Submitted on: 2/15/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Coelho	Individual	Oppose	No

Comments: I'm opposed to this bill in its current form. While the intent of the bill is worthwhile, it is a waste of time to pursue it until DLNR is given the budget, manpower and equipment to adequately enforce it. If this is passed the State will once again put the cart before the horse and complain when DLNR is unable to effectively enforce the new rules. Thank you for your time.

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**Subject:** \*Submitted testimony for SB2579 on Feb 17, 2016 14:45PM\*  
**Date:** Tuesday, February 09, 2016 10:27:26 PM

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**SB2579**

Submitted on: 2/9/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Individual	Oppose	Yes

Comments:

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**Date:** Sunday, February 07, 2016 10:24:27 PM

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**SB2579**

Submitted on: 2/7/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sherry Pollack	Individual	Support	No

Comments:

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**Subject:** Submitted testimony for SB2579 on Feb 17, 2016 14:45PM  
**Date:** Friday, February 05, 2016 4:34:25 PM

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**SB2579**

Submitted on: 2/5/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Walter Ritte	Individual	Support	Yes

Comments: I very strongly support this bill, as it is a matter of survival for us on Molokai.

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