

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
JUDICIARY

Wednesday, February 13, 2019
2:01 PM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 1133, HOUSE DRAFT 1
RELATING TO MARINE LIFE CONSERVATION DISTRICTS

House Bill 1133, House Draft 1 proposes to limit entry into the Molokini marine life Conservation District to forty-one permits and twenty permitted vessels may be granted entry to the crater at any one time. **The Department of Land and Natural Resources (Department) offers the following comments.**

There are currently forty Molokini Shoal Marine Life Conservation District (MLCD) use permits in operation, and this number will not increase. A 2010 social carrying capacity study found that over 2/3 of all visitors felt crowded and that too many boats were in the crater. A 2016 reef predator movement study found that fifty percent of omilu (a key nearshore reef predator) were displaced outside of the shallow crater into deeper water when the number of boats exceeded 12. Molokini commercial use data show that the average number of boats in the crater at the same time during peak use periods is ten and that 12 boats is exceeded about 1/3 of the days. The attached photo shows 12 boats moored in Molokini Crater.

The Department is currently working with permitted Molokini operators to explore how to best address this over-crowding concern while minimizing impacts to commercial tour operations. The Department prefers to pursue these management changes through the chapter 91 administrative rulemaking process to allow for broader stakeholder engagement and public input in meetings held on Maui. Maui ocean users have not had an opportunity to discuss the actions proposed in this Bill or to provide input. The passing of this bill would be pre-mature given the lack of stakeholder engagement.

Thank you for the opportunity to comment on this measure.

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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





**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

H.B. NO. 1133, H.D. 1, RELATING TO MARINE LIFE CONSERVATION DISTRICTS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Wednesday, February 13, 2019 **TIME:** 2:01 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
David D. Day, Deputy Attorney General, or William J. Wynhoff,
Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill and offers the following comments.

This bill may be subject to challenge as a special law concerning lands owned by the State in violation of article XI, section 5 of the Hawai'i Constitution. The bill amends section 190-4.5, Hawaii Revised Statutes (HRS), to state that, with respect to the Molokini marine life conservation district, there shall be forty-one permits, and twenty permitted vessels granted entry, at any given time. We understand this bill to be referring to the Molokini Shoal marine life conservation district regulated in chapter 13-31, Hawaii Administrative Rules.

Article XI, section 5 of the Hawai'i Constitution states: "The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof." A general law must apply uniformly. *Sierra Club v. Dep't of Transp.*, 120 Hawai'i 181, 214, 202 P.3d 1226, 1259 (2009). There is a potential that the bill could be subject to challenge as an exercise of legislative power over State lands by special law because it only applies to a specific area of state marine waters. *Cf. Umburger v. Dep't of Land & Nat'l*

Res., 140 Hawai'i 500, 521, 403 P.3d 277, 298 (2017) (state marine waters are "state lands" under chapter 343, HRS).

We recommend that this bill be deferred.

Council Chair
Kelly T. King

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Alice L. Lee
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Maria E. Zielinski

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 12, 2019

TO: The Honorable Chris Lee, Chair
House Committee on Judiciary

FROM: Kelly T. King
Council Chair

A handwritten signature in cursive script that reads "Kelly King".

SUBJECT: **HEARING OF FEBRUARY 13, 2019; TESTIMONY IN SUPPORT OF HB 1133, HD 1, RELATING TO MARINE LIFE CONSERVATION DISTRICTS**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this bill is to preserve Molokini shoal by limiting entry into the Molokini Marine Life Conservation District to 41 permits and 20 permitted vessels at any given time.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. A 2016 reef predator movement study found that 50 percent of omilu (a key nearshore reef predator) were displaced outside of the shallow crater into deeper water when the number of boats exceeded 12.
2. A 2018 study found that 69 percent of visitors felt overcrowded while at the Molokini shoal.
3. These studies show that overcrowding is a current problem for both marine life and visitors within the Molokini shoal.

For the foregoing reasons, I **support** this measure.



COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Rep. Tom Brower

Rep. Calvin K.Y. Say

Rep. Richard P. Creagan

Rep. Gregg Takayama

Rep. Nicole E. Lowen

Rep. Ryan I. Yamane

Rep. Angus L.K. McKelvey

Rep. Cynthia Thielen

Rep. Dee Morikawa

NOTICE OF HEARING

DATE: Wednesday, February 13, 2019

TIME: 2:01pm

PLACE: Conference Room 325

**TESTIMONY OF THE OCEAN TOURISM COALITION IN STRONG SUPPORT OF
HB 1133 HD1 RELATING TO MARINE CONSERVATION DISTRICTS**

Chair Lee, Vice Chair Buenaventura and Members of Committee on Judiciary:

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC),
**speaking in Strong Support of HB 1133 HD1 Relating to Marine Life Conservation
Districts.**

The OTC represents over 300 small ocean tourism businesses state wide. All of
them operate from State Boating Facilities managed by DLNR/DOBOR/DAR.
According to DAR there are currently **not 41** but **40 Permitted Snorkel Dive
businesses** that are permitted access Molokini Shoals MLCD's on a daily basis--
weather permitting--to enjoy the Crater before the Trades come in.

Molokini Shoals MLCD is a very unique place. It is located at the edge of the
Alenuihaha Channel. It is the most popular snorkel dive destination in Maui
County and possibly the State. The coral is healthy the ecosystem robust the
visitor experience safe and excellent. However the trade winds blow into the
Crater almost every day often starting between 10:00-11:00 am making all boats
leave the area giving about a three hour window of Crater access. The time from
8:00-10:00 is the most valued time in the Crater and the time almost everyone
would prefer to be there to conduct snorkel/dive tours.

Because there are 40 Commercial Permits for the Crater and only 24 moorings,
each company has had to modify their schedule so that they share time on a

specific mooring. It takes a minimum of 1.5 hours to conduct a quality snorkel/dive tour at Molokini.

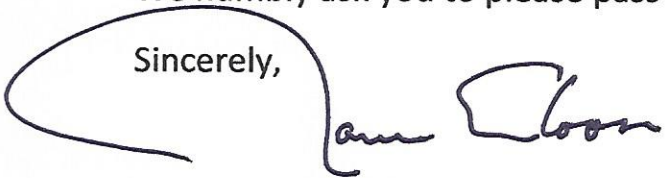
Typically each mooring accommodates up to two vessels per day. Currently there are, on occasion, unpermitted vessels that “drift” inside the crater with their guests swimming in the Crater. If this persists it will lead to overcrowding in the Crater in the future. This legislation proactively assures that the cap of 40 Commercial Use Permits for Molokini Crater will not be increased as well as a workable limit of 20 Permitted Commercial Vessels that can be in the Crater at any one time. It will also prohibit non permitted commercial vessels from entering the Crater.

There are only 24 Commercial Moorings in Molokini Crater so it cannot be overcrowded if non permitted commercial vessels are prohibited from accessing the crater. The cap of 20 vessels at any given time leaves four unused moorings available when wind and sea conditions may render certain moorings in the Crater unsafe to use.

The Molokini Operators have managed to work together for over four decades. There is currently not a problem in Molokini but this legislation will ensure that Molokini Shoals MLCDC remains pristine and accessible in the future. It also ensures that the 40 Molokini Permit holders will have adequate time in the Crater to conduct their tours and deliver the world class experience our guests deserve.

We humbly ask you to please pass HB1133 HD1.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Coon". The signature is written in a cursive style and is enclosed within a large, hand-drawn oval shape.

James E. Coon, President

Ocean Tourism Coalition

Testimony of The Nature Conservancy of Hawai'i
Opposing HB 1133 Relating to Marine Life Conservation Districts
House Committee on Judiciary
Wednesday, February 13, 2019, 2:01 PM, Room 325

The Nature Conservancy of Hawai'i is a non-profit conservation organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 preserves and work in over 30 coastal communities to help protect the near-shore reefs, waters and fisheries of the main Hawaiian Islands. We forge partnership with government, private parties and communities to protect forests and coral reefs for their ecological values and the many benefits they provide to people.

The Nature Conservancy opposes HB 1133. We don't wish to harm the businesses of tour operators who are responsible, caring and who want to see Molokini's resources thrive not just for the health of their businesses, but also their ecological values and other benefits they provide to all people.

However, this bill:

- Does not reduce current crowding and the effects on marine life at Molokini Shoal Marine Life Conservation District (Molokini);
- Eliminates the ability of the State to carry out its public trust responsibility to manage activities and resources at Molokini; and
- Authorizes levels of use shown to have negative impacts on marine life at Molokini.

Please defer this measure to ensure that a comprehensive process informed by user, community, cultural, and scientific engagement is undertaken to address this important issue.

With all respect to the Legislature's authority to establish overarching policy and law, detailed natural resource management strategies and related use requirements and restrictions should be addressed by the State's comprehensive Chapter 91 rulemaking and stakeholder engagement processes. That is clearly the intent of HRS §190-4.5, which this bills seeks to modify with an exemption for a single location.

DLNR Division of Aquatic Resources' studies have shown that both coral reef predators and the visitor experience is affected by over-crowding at Molokini. The State's 2010 social carrying capacity study finds that over 2/3 of all visitors report feeling crowded and report too many boats at Molokini. And, DAR's 2016 reef predator movement study found 50% of 'ōmilu (a key reef predator) are displaced outside of the shallow crater into deep water when the number of boats exceeds 12.

Coral reef predators occupy the highest level of that ecosystem's food chain and serve a critical ecological purpose. By eating other fish, they structure the reef community and increase the productivity of the system down food chain. If mobile predators are leaving because of activity levels, it is very reasonable to think that less mobile fish that can't leave are also altering their behavior in response to all of the disturbance, therefore, not filling their ecological role. All of this can make the ecosystem less stable and vulnerable to other threats like climate change.

Levels of use at Molokini by commercial operators should be set after careful consideration of impacts to resources and all interested parties. Please defer this bill to ensure that process is undertaken.

Thank you.

COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Rep. Tom Brower	Rep. Calvin K.Y. Say
Rep. Richard P. Creagan	Rep. Gregg Takayama
Rep. Nicole E. Lowen	Rep. Ryan I. Yamane
Rep. Angus L.K. McKelvey	Rep. Cynthia Thielen
Rep. Dee Morikawa	

NOTICE OF HEARING

DATE: Wednesday, February 13, 2019
TIME: 2:01pm
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

TESTIMONY BY CALYPSO IN STRONG SUPPORT TO HB1133 RELATING TO MOLOKINI:

Chair Lee, Vice Chair San Buenaventura, and Members of the Judiciary Committee:

Calypso Charters and its affiliates employ close to 100 people in Hawaii's tourism industry. We have been operating in Molokini crater for more than 30 years.

Molokini is a perfect example of a successful Marine Life Conservation District ("MLCD"). The reef and biomass population is healthy, and the permitted operators play by the rules. In Molokini, there are 40 permit holders and only 26 moorings. Despite this gap, the Molokini operators have managed to work together for over three decades without significant user conflict, and minimal impact on the resource. In fact, reports cited by the Division of Aquatic Resources ("DAR") concluded the "coral reefs at Molokini are considered to be relatively healthy in spite of substantial marine recreation use and impacts associated with these activities are mitigated by the site's isolation and depth."

Molokini Existing Limitations and Regulations

Molokini's use is already extremely limited by mother-nature, and there are more than 20 different rules that operators must abide by.¹ Our operation visits Molokini about 1.5 hours a day for about 300 days a year or less. The natural wind limitations of Molokini force all operators out by 10:00, if not earlier. Molokini is often totally inaccessible due to weather conditions. In short, Molokini is already a heavily regulated resource with limited access and extensive rules and prohibitions. The resource is not experiencing any problems and mother-nature limits use.

Benefits of Bill

Unfortunately, based on poor rule drafting, *unpermitted* commercial vessels may access Molokini and "drift" dive, as long as they don't moor inside the crater. This bill would limit commercial use of Molokini to only *permitted* vessel. Additionally, permitted vessels are regulated by the permit and agree to certain rules and

¹ Existing regulations, to name a few: No new permits are issued for Molokini (H.A.R. 13-31-5); DAR No Longer Authorizes Temporary Mooring Permits Pursuant to H.A.S. 13-257-52(c); Restrictions on Changing Vessel Size, Height, and/or Weight (Molo Permit, ¶10); Permits are Non-Transferable (H.A.R. 13-231-5); Pre-Trip Passenger Consent Forms Required from All Crew and Passengers (Molo Permit, ¶13); Cannot increase passenger requirement; Zone Area Restrictions; Existing zone restrictions aren't enforced; Captain experience requirement to pilot Molokini (Molo Permit, ¶17); GPS required for all vessels in Molokini (Molo Permit, ¶6); SCUBA and SNUBA limitations (Molo Permit, ¶10); Monthly Reporting Requirements (Molo Permit, ¶14); Cleaning Snorkel Gear Prohibited (Molo Permit, ¶11); BBQ Prohibited (Molo Permit, ¶11); Speed Restrictions (H.A.R. 13-357-55); Damage to reef prohibited (H.A.R. 13-231-3); 2.5 time limitation (H.A.R. 13-257-3); Vessel Repairs Prohibited (Molo Permit, ¶9); No Fishing or Spearfishing (H.A.R. 13-231-3); No Fish feeding (H.A.R. 13-231-4); No overnight mooring (H.A.R. 13-257-3(b)); and No anchoring (H.A.R. 13-357-55, H.A.R. 13-231-6).

regulations. Those rules and regulations help preserve and protect Molokini. On the contrary, non-permitted vessels avoid the permit restrictions. This bill will further reduce the number of vessels in the crater and make certain the vessels are subject to the permit restrictions.

Furthermore, based on the current rules, there is no limitation on the number of permit holders that may enter the crater at any one time. In theory, all 40 boats could enter the crater at any time. HB1133 would limit entry to 20 permit holders at any one time.

Department of Aquatics (DAR) Reports in Inconclusive

Any further reduction of Molokini moorings *below* 20 is unnecessary and unreasonable. It takes a minimum of 20 moorings to service the 40 permitted tour boats, and boats need at least 90 minutes to conduct a quality tour. If not, companies will go out of business. DAR cites two reports for its justification to overhaul Molokini.

Reef Predators

DAR cites a reef predator report as justification for reducing moorings to 12, which will put companies out of business. Out of 5 species studies, only Omilu visited the crater during snorkeling hours.

During the 12 hours of daylight, the Omilu were temporally displaced during peak hours between 8:00am and 10:00am, but that “the exact mechanism of displacement [of Omilu] (from A to B) is uncertain.” The report concluded that “further research is needed”, partially because the report was unable to determine the cause of the displacement.

There are so many unknowns in the report, it seems unreasonable to put companies out of business with 12 moorings. Most importantly, “*the consequences of the displacement of bluefin trevally from the shallow waters of Molokini crater during peak hours in human use are unknown.*” That is directly from the report cited by DAR. Also, the report is based on acoustic sound heard by the Omilu. However, DAR isn’t certain of the frequency that Omilu hear sound, and that “the physiological effect of intense anthropogenic noise on fishes is poorly understood.” The method of collecting data also contained important assumptions. For instance, “fluctuations in detection ranges in response to environmental noise are real constraints...and likely introduce a source of error in making conclusions about animal movements” in the report. This is too much error and uncertainty to put long-standing companies out of business.

Customer Satisfaction

DAR also cites a customer satisfaction survey as evidence for reducing moorings below 20. In the survey, **95% of the visitors that were polled about Molokini stated they were highly satisfied.** Amazingly, nobody was dissatisfied with the Molokini experience. Also over 80% charter boat passengers in Molokini learn that feeding fish and touching marine life is harmful. These are very encouraging and positive numbers.

Conclusion

Molokini trips offer education along with lifeguarded, supervised natural exploration. Tour boats take pictures and leave bubbles. Tour boats do not feed fish, do not catch fish, do not BBQ in the crater, are faithful stewards of this environment and are the most motivated to keep it pristine. There is currently not a problem in Molokini, but this legislation will ensure that Molokini Crater MLCD remains pristine and usable in the future.

Sincerely

Zachary LaPrade
Calypso Charters

**Testimony of Denver Saxton Coon on behalf of Trilogy Corporation, in Strong Support of HB1133,
Relating to Marine Life Conservation Districts.**

COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Rep. Tom Brower	Rep. Calvin K.Y. Say
Rep. Richard P. Creagan	Rep. Gregg Takayama
Rep. Nicole E. Lowen	Rep. Ryan I. Yamane
Rep. Angus L.K. McKelvey	Rep. Cynthia Thielen
Rep. Dee Morikawa	

Chair Lee, Vice Chair San Buenaventura, and members of the Committee on Judiciary:

Aloha. My name is Denver Saxton Coon. I am general counsel for Trilogy Corporation dba Trilogy Excursions on the island of Maui. Trilogy Excursions currently conducts permitted commercial tours at the Molokini Shoal Marine Life Conservation District (“Molokini MLCD”) and is testifying **strong support** of HB1133.

There are currently 40 commercial vessels authorized by permit to moor at the Molokini MLCD. The permits are issued by the Department of Land and Natural Resources’ Division of Aquatic Resources (“DLNR-DAR”). However, unpermitted vessels are currently conducting commercial operations in the Molokini MLCD due to a loophole in the wording of the rules. This loophole states that vessels must be permitted in order to moor but fails to address unpermitted commercial operators. This has resulted in unpermitted vessels conducting “drift dive” tours within the crater without the use of a mooring. This not only has led to the overcrowding of the resources but numerous safety concerns. Accordingly, one of the intents of the HB1133 is to close this loophole for the welfare of the resources and the commercial and recreational visitors to the Molokini MLCD.

In addition, the HB1133 would limit the number of vessels that may be inside the Molokini MLCD to twenty at any one time. As it currently stands, there are no limitations on the number of permitted and unpermitted vessels that may use the area at any one time. The intent of HB1133 is to limit commercial use but not restrict access by recreational users.

Please pass HB1133 with an allowance for 20 permitted vessels at any one time and a cap of 41 Molokini MLCD Permits.

Mahalo,

Denver Saxton Coon
Trilogy Corporation
General Counsel
denver.coon@sailtrilogy.com

HB-1133-HD-1

Submitted on: 2/12/2019 8:09:18 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brennan Henders	Maui Classic Charters	Support	No

Comments:

HB-1133-HD-1

Submitted on: 2/12/2019 9:57:51 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
scott blish	maui-molokai sea cruises	Support	No

Comments:

Aloha, I am writing on behalf of Maui-Molokai Sea Cruises, we employ 50 people. We operate out of Maalea and run two boats to Molokini. We agree that 20 boats is a reasonable limit at any given time and that 41 permits should continue to be permitted and will work together to operate inside Molokini at no more than 20 at a time.

I believe this because we operators take good care of Molokini and care deeply about its health. We bring guests to Molokini, we never allow them to touch anything, to fish, or feed the fish, we never anchor, we have banned non reef safe sunscreen. We teach our guests about the fragility of the reef and crater, about some its history all with the intent to instill the need to respect and conserve Molokini.

And know that Molokini is used about 300 days per year yes but only for about 4 hours per day. So about 15% of each day and not more.

We believe it is a privilege to take our guests out there. We want visitors to visit this wonderful place. And we feel strongly that the reef is healthy, well taken care of, well managed and well conserved; all under the operators oversight. Lets keep things stable and healthy and continue this healthy relationship between nature and humans.

Mahalo,

Scott Blish

HB-1133-HD-1

Submitted on: 2/12/2019 11:28:55 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristie Wrigglesworth	PacWhale Eco-Adventures	Support	No

Comments:

I represent PacWhale Eco-Adventures, a marine eco-tour operation in Maui County involving 6 vessels and 80 vessel staff. I am submitting this testimony in support of HB1133 HD1.

1. DAR already has the ability to reduce the number of permits and visitors to Molokini over time.

The state has already approved 41 Molokini use permits, plus 24 moorings in Molokini in order to protect the coral there. It has made adjustments to ensure that those permits and the number of visitors going to Molokini will be reduced over time. For example, if a vessel attached to a use permit is replaced with a smaller vessel with a lower carrying capacity, then the permit capacity reduces to the vessel carrying capacity. In addition, DAR has authority to reject use of larger commercial vessels in Molokini, and it is their responsibility to do so.

2. Molokini is in good condition and activity in Molokini should not be substantially reduced unless new day-use moorings are installed in more sensitive nearshore areas.

Anchor damage is a key threat to coral reefs around the world according to the [International Coral Reef Initiative](#) and the [US Coral Reef Task Force](#). Day-use moorings have proven to be an effective tool to help prevent this coral damage by enabling boats to tie up to mooring buoys instead of dropping anchors onto the coral reefs.

In recent Molokini working group meetings, DAR has proposed to reduce activity in Molokini to 12 commercial vessels and 2 recreational vessels (14 total at one time). Based on the current trip schedule prepared by all of the Molokini operators, this will result in displacement of 5 or more operators. Substantially reducing activity in Molokini without a plan for additional moorings elsewhere could create anchor damage in more sensitive nearshore areas that operators will be displaced to.

After reading through the surveys and scientific articles provided by DAR, we believe there is little evidence for detrimental impacts to the coral reef and its inhabitants. However, there is evidence of a negative relationship between vessel traffic and a

species of fish called the bluefin trevally: “During peak hours of human use, there was a negative relationship ($R^2= 0.77$, $P < 0.001$) between the presence of bluefin trevally (*Caranx melampygus*) and vessels in subzone A. No other species showed strong evidence of this relationship.”

From an analytical perspective, the science could be improved to support the decision to reduce moorings by expanding analysis to multivariate approach. This will help determine if the vessel number is acting in conjunction with or as a proxy for temporal (time), environmental, spatial (habitat), and/or biological components. Further, additional analysis to justify 12 vessels could be strengthened using a change-point-model to determine when there is a statistical significant difference in the number of bluefin trevally as it relates to vessel counts.

Finally, a key component that is missing is a modeling exercise to determine the appropriate number of vessels (12 is based on insufficient evidence, 1 fish species) and the impact on nearby reefs of increased pressure as a result of increased tourism. Nearshore areas are subject to more pressures resulting from proximity to land and ease of access. Despite Molokini having a high use, it seems to be resilient to the impacts of tourism and that is likely a result of it being away from shore (boat access only) and subject to regular currents.

Thank you for your time and consideration of this testimony in support of HB1133 HD1.

HB-1133-HD-1

Submitted on: 2/12/2019 11:54:05 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Turner	Maui-Molokai Sea Cruises	Support	No

Comments:

Aloha,

This bill is a reasonable compromise suggested by the commercially permitted operators at Molokini Crater. We respectfully submit that this bill is a reasonable solution to ensuring that the Molokini Shoal Marine Life Conservation area remains healthy and that we as stewards of the crater remain in business.

Mahalo,

Scott Turner

CEO

Maui-Molokai Sea Cruises

HB-1133-HD-1

Submitted on: 2/12/2019 7:57:47 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Donna Henders	Individual	Support	No

Comments:

HB-1133-HD-1

Submitted on: 2/12/2019 8:12:34 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marcella Mondejar	Individual	Support	No

Comments:



Testimony by Maria Taylor in *strong support* of HB1133 HD1 relating to Molokini:

Thank you for this opportunity to provide testimony regarding HB1133 HD1. I am the General Manager of Kai Kanani Sailing, a Native Hawaiian and family-owned company that has been operating snorkeling tours to Molokini for over 30 years. We train all of our crew as Marine Naturalists through the Hawaii Wildlife Fund and educate our guests about the fragile marine ecosystems and the harm that can be caused by toxic sunscreen, touching sea life, and feeding fish, among many other things. Guest education is critical to the health of our oceans and Molokini crater provides us with a venue to connect the guests to why they need to care about it.

I *strongly* support this bill for the following reasons:

-Molokini is a healthy ecosystem and we want to preserve it. Limiting the commercial operators to 20 boats strikes a fantastic balance that will ensure the continued health of the ecosystem while allowing tour operators to continue to operate and educate guests. Anything less than 20 permitted vessels would put an unnecessary burden on the boating industry.

-HB1133 HD1 would limit commercial use of Molokini to only permitted vessels who are vested in its sustainability and conservation. This would also eliminate overcrowding.

-This legislation will ensure that Molokini Crater MLCDC remains pristine and usable in the future.

Thank you for your time and consideration.

Sincerely,

Maria Taylor, General Manager
Kai Kanani Sailing

HB-1133-HD-1

Submitted on: 2/12/2019 1:04:30 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Anthony DelleFave	Individual	Support	No

Comments:

I support the proposal as a Molokini user. It limits the amount of commercial operators at a given time but affords the flexibility to deal with "Mother Nature". It also keeps the burden of being a good steward on the permitted companies, and keeps out the unpermitted operator that can be hard to enforce or fine.

HB-1133-HD-1

Submitted on: 2/12/2019 1:58:52 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
MARK DERENSIS	Individual	Support	No

Comments:

[COMMITTEE ON WATER, LAND](#) & HAWAIIAN AFFAIRS

Rep. Ryan I. Yamane, Chair

Rep. Chris Todd, Vice Chair

Rep. Sharon E. Har

Rep. Nicole E. Lowen, Rep. Cythia Theilen

Rep. David A. Tarnas ,Rep. Tina Wildberger

NOTICE OF HEARING

DATE: Monday, February 13, 2019

TIME: 2:01 P.M.

Conference Room 325

PLACE: State Capitol

415 South Beretania Street

TESTIMONY BY: MARK DE RENSIS IN STRONG SUPPORT TO HB1133 RELATING TO MOLOKINI:

Chair Kahele, Vice Chair Keith-Agaran, and Members of WTL Committee:

BLUE WATER RAFTING

P.O. BOX 1865

KIHEI, HI 96753

Blue Water Rafting has been operating out of Kihei Boat Ramp and taking visitors to the Molokini Marine Life Conservation District almost every day for 34 years. Although we have seen some increase to the number of commercial and non-commercial vessels during this period, the MLCD has been, and continues to be, an extremely healthy marine ecosystem with a vast variety of marine life.

Over these years we have seen numerous improvements which have helped to protect the resource including but not limited to:

1. The installation of a mooring system so that there would no longer be vessels anchoring.
2. Rules prohibiting feeding and touching or harming of the marine life within the MLCD.
3. Education of people visiting the MLCD for the purpose of snorkeling and/or scuba diving.

Our three vessels visit Molokini for less than an hour a day each for snorkeling. On a number days we either do not enter zone "A" at all, and only visit zone "B" due to wind and sea conditions.

There are a significant number of days when none of the 40 current commercial operators, are able to stay for any length of time within the MLCD.

There is a study which indicates there could be a displacement of certain species of predator fish (Omilu) during times when a significant number of vessels are in the MLCD at one time.

The report also stated "Coral reefs at Molokini are considered to be "relatively healthy" in spite of substantial marine recreation use and impacts associated with these activities are mitigated by the site's isolation and depth."

Since the conditions at Molokini generally limit use to about 3 hours per day, and most of the vessels that enter the MLCD are there for only an hour and a half per day, it would not seem logical or necessary to greatly reduce the number of moorings or number of vessels in the MLCD for such a small portion of the day.

About 20 moorings are needed to service the existing 40 permitted vessels

As it stands, there are now 26 mooring within the MLCD. Under ideal circumstances any of the moorings would be available to a vessel any given day.

HB1133 would limit the number to 20 Permitted Vessels at any given time within the crater. This would preclude removing any of the moorings which may be needed in the event of damage to any of the moorings due to normal wear and tear.

Another Study has been presented which sampled people who had visited Molokini and were asked questions as to whether they perceived Molokini to be crowded.

I am not aware of any of **our** passengers having been included in this sampling, nor have we ever had a complaint by any of our clients indicating that they felt overcrowded at Molokini on any of our tours.

In our view, there is currently not a problem in Molokini but this legislation will help ensure that Molokini Crater MLCD remains pristine and usable in the future.

Sincerely

Mark De Rensis

HB-1133-HD-1

Submitted on: 2/12/2019 4:32:19 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support HB1133. Coral reefs are already dying, and many of those left are under stress from warming oceans, making them more susceptible to disease. Adding snorkelers with chemicals from sunscreen and toiletries on their bodies just adds to that stress.

Thank you for the opportunity to present my testimony.

Andrea Quinn

Kihei

LATE

HB-1133-HD-1

Submitted on: 2/13/2019 8:33:12 AM
Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Adam K. Wong	Individual	Oppose	No

Comments:

Aloha mai kakou,

I am writing to OPPOSE bill HB1133 relating to Molokini MLCD. The high number of commercial vessels visiting Molokini daily are already displacing animals from their natural habitat. 20 vessels at any given time of day is just absurd and would do nothing positive for our precious resources. Please look to your na'au and put our fragile reef ecosystems before money. Mahalo for your time.

Adam K. Wong