

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 House Committee on
WATER, LAND, & HAWAIIAN AFFAIRS

Wednesday, February 6, 2019
9:30 AM
State Capitol, Conference Room 325

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

House Bill 1133 proposes to require the Department of Land and Natural Resources (Department) to limit entry into the Molokini Marine Life Conservation District to forty-one permits and twenty permitted vessels at any given time. **The Department appreciates the intent of this bill and 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.

Based on these findings, the Department is currently undertaking a stakeholder consultation process to address this over-crowding concern through administrative rule changes. The Department prefers to develop management measures through the chapter 91 administrative rulemaking process to allow for broader stakeholder engagement and public input.

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





COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

Rep. Ryan I. Yamane, Chair

Rep. Chris Todd, Vice Chair

Rep. Sharon E. Har

Rep. Tina Wildberger

Rep. Nicole E. Lowen

Rep. Cynthia Thielen

Rep. David A. Tarnas

NOTICE OF HEARING

DATE: Wednesday, February 6, 2019

TIME: 9:30am

PLACE: Conference Room 325

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

Chair Yamane, Vice Chair Todd and Members of WLH Committee:

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC), **speaking in Strong Support of HB 1133 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. On Maui up to 41 of these DAR Permitted Snorkel Dive businesses go to 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 41 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 41 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 MLCD remains pristine and accessible in the future. It also ensures that the 41 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

Sincerely,



James E. Coon, President

Ocean Tourism Coalition

HB-1133

Submitted on: 2/2/2019 8:04:10 PM

Testimony for WLH on 2/6/2019 9:30:00 AM

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

Comments:

HB-1133

Submitted on: 2/3/2019 8:21:27 PM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
KATHY LOUI-YASUI	PACIFIC MARINE	Support	No

Comments:

HB-1133

Submitted on: 2/2/2019 8:08:42 PM

Testimony for WLH on 2/6/2019 9:30:00 AM

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

Comments:

HB-1133

Submitted on: 2/4/2019 8:08:47 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Strahn	Alii Nui Charters	Support	No

Comments:

HB-1133

Submitted on: 2/5/2019 5:54:59 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Megan Edgar	Maui Nui Marine Resource Council	Oppose	No

Comments:

Maui Nui Marine Resource Council

Tuesday, February 5, 2019

Opposed to HB 1133: Relating to Marine Life Conservation District

The Maui Nui Marine Resource Council (MNMRC) is a 501(c)(3) organization committed to increasing the amount of clean ocean water, healthy coral reefs, and abundant native fish in Maui Nui. MNMRC is opposed to HB 1133 which will amend Hawaii Revised Statutes, Section 190-4.5 to allow “no more than forty-one permits and twenty permitted vessels granted entry into the Molokini marine life conservation district at any given time.”

The Molokini shoal Marine Life Conservation District (MLCD) is protected by the State because it is a valuable reef ecosystem and state seabird sanctuary. The shape of the islet creates a protected underwater area within the crater and a dramatic drop-off on the outside of the crater creating distinct habitats within a small area and allowing for a large diversity of native corals, fish, invertebrates and other marine life to thrive.

The diversity found within Molokini shoal MLCD has made it a very popular tourist destination that sees heavy daily commercial and recreational use. This high use has created problems for visitors and marine life within the Molokini shoal MLCD. A 2016 study on omilu (Bluefin Trevally) found that 50% of the fish moved from their preferred shallow reef habitat any time there were more than 12 vessels within the Molokini shoal MLCD. A 2018 study found that 69% of visitors felt overcrowded while at the Molokini shoal MLCD. These studies clearly show that overcrowding is a current problem for both marine life and visitors within the Molokini shoal MLCD

MNMRC understands the need for restricting visitors to Molokini shoal MLCD. However, MNMRC believes a community-driven bottom-up approach to resource management is more effective than the top-down approach taken by HB 1133. Decades of administrative rules have not stopped the precipitous decline of

native fish populations. We have seen that effective management comes from involving the community in the decision making process as it creates improved compliance and greater understanding and concern for Hawaii's valuable marine resources. For example, when asked about regulations at Molokini, Maui residents suggest restricting visitor numbers rather than vessel numbers, as that will better protect Molokini shoal MLCD by capping the total number of people allowed there at any one time.

Maui Nui Marine Resource Council prefers a community-based, bottom-up approach to resource management and asks that you not pass HB 1133 in favor of giving DLNR the opportunity to hear from the community before setting new rules.

Thank you for this opportunity to testify.

HB-1133

Submitted on: 2/5/2019 7:52:48 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicole Andricci	Maui Classic Charters, Inc.	Support	No

Comments:

Aloha,

I support this bill in relating to marine life conservation in regards to Molokini. This bill will protect the environment while allowing small business to operate within Molokini crater.

COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

Rep. Ryan I. Yamane, Chair

Rep. Chris Todd, Vice Chair

Rep. Sharon E. Har Rep. Tina Wildberger
Rep. Nicole E. Lowen Rep. Cynthia Thielen
Rep. David A. Tarnas

NOTICE OF HEARING

DATE: Wednesday, February 6, 2019
TIME: 9:30am
PLACE: Conference Room 325
 State Capitol
 415 South Beretania Street

**TESTIMONY BY CALYPSO CHARTERS IN STRONG SUPPORT TO HB1133
RELATING TO MOLOKINI**

Chair Yamane, Vice Chair Todd, and Members of WTL Committee:

Calypso Charters and its affiliates (the “Company”) employ close to 10 people in Hawaii’s tourism industry. We have been operating in Molokini crater for nearly 30 years.

Molokini is a perfect example of a successfully MLCD. Despite large quantity of visitors, the reef and biomass population is healthy, and operators play by the rules. We feel HB1133 solidifies the current model and even further limits use to 20 vessels at any given time. The Molokini operators have managed to work together for over three decades.

We visit Molokini about 1.5 hours a day for about 300 days a year or less. That is a total use of about 12 days a year. There are 40 permit holders and only 26 moorings. The natural wind limitations of Molokini force all operators out by 11:00, if not earlier.

Existing Molokini Protections and Limitations:

The following are the ***existing*** Molokini Specific Rules and Regulations:

- A. No new permits are issued for Molokini (H.A.R. 13-31-5)
- B. DAR No Longer Authorizes Temporary Mooring Permits Pursuant to [H.A.S. 13-257-52\(c\)](#).
- C. Restrictions on Changing Vessel Size, Height, and/or Weight (Molo Permit, ¶20)
- D. Permits are Non-Transferable (H.A.R. 13-231-5)
- E. Pre-Trip Passenger Consent Forms Required from All Crew and Passengers (Molo Permit, ¶13)
- F. Cannot increase passenger requirement.
- G. Zone Area Restrictions.
Existing zone restrictions aren’t enforced.
- H. Weather (Natural Limitations).
Weather patterns already naturally limit Molokini use after 10:00.
- I. Captain experience requirement to pilot Molokini (Molo Permit, ¶17)

- J. GPS required for all vessels in Molokini (Molo Permit, ¶6)
- K. SCUBA and SNUBA limitations (Molo Permit, ¶10)
- L. Monthly Reporting Requirements (Molo Permit, ¶14)
- M. Cleaning Snorkel Gear Prohibited (Molo Permit, ¶11)
- N. BBQ Prohibited (Molo Permit, ¶11)
- O. Speed Restrictions (H.A.R. 13-357-55)
- P. Damage to reef prohibited (H.A.R. 13-231-3)
- Q. 2.5 time limitation (H.A.R. 13-257-3)
- R. Vessel Repairs Prohibited (Molo Permit, ¶9)
- S. No Fishing or Spearfishing (H.A.R. 13-231-3)
- T. No Fish feeding (H.A.R. 13-231-4)
- U. No overnight mooring (H.A.R. 13-257-3(b))
- V. No anchoring (H.A.R. 13-357-55, H.A.R. 13-231-6)

Non-Permitted Vessels May Drift In Molokini.

Currently, unpermitted commercial vessels may access Molokini and “drift” dive. HB1133 would limit commercial use of Molokini to only permitted vessel.

All 40 Permit Holders May Enter Molokini.

Based on the current rules, there is no limitation is the number of permit holders that may enter the crater at any one time. In theory, all 40 boats could enter the crater. More than 20 permit holders definitely enter the crater during peak season. HB1133 would limit entry to 20 permit holders.

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

COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

Rep. Ryan I. Yamane, Chair

Rep. Chris Todd, Vice Chair

Rep. Sharon E. Har Rep. Tina Wildberger
Rep. Nicole E. Lowen Rep. Cynthia Thielen
Rep. David A. Tarnas

NOTICE OF HEARING

DATE: Wednesday, February 6, 2019

TIME: 9:30am

PLACE: Conference Room 325

State Capitol

415 South Beretania Street

**TESTIMONY BY MALOLO CHARTERS IN STRONG SUPPORT TO HB1133
RELATING TO MOLOKINI:**

Chair Yamane, Vice Chair Todd, and Members of WTL Committee:

Malolo Charters and its affiliates (the “Company”) employ close to 100 people in Hawaii’s tourism industry. We have been operating in Molokini crater for nearly 30 years.

Molokini is a perfect example of a successfully MLCD. Despite large quantity of visitors, the reef and biomass population is healthy, and 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.

We visit Molokini about 1.5 hours a day for about 300 days a year or less. That is a total use of about 12 days a year. The natural wind limitations of Molokini force all operators out by 11:00, if not earlier. In short, Molokini is already a heavily regulated resource with limited access.

This bill further protects Molokini as follows:

Non-Permitted Vessels May Drift In Molokini.

Currently, unpermitted commercial vessels may access Molokini and “drift” dive. HB1133 would limit commercial use of Molokini to only permitted vessel.

All 40 Permit Holders May Enter Molokini.

Based on the current rules, there is no limitation is the number of permit holders that may enter the crater at any one time. In theory, all 40 boats could enter the crater. More than 20 permit holders definitely enter the crater during peak season. HB1133 would limit entry to 20 permit holders.

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, Phil Kasper

HB-1133

Submitted on: 2/5/2019 8:50:51 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristie Wrigglesworth	PacWhale Eco-Adventures	Support	Yes

Comments:

I represent a marine eco-tour operation in Maui County involving 6 vessels and currently employ 80 vessel staff. I am submitting this testimony in support of HB1133.

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.

1. Moorings 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 moorings in Molokini to 12 commercial moorings and 2 recreational moorings (14 total). Based on the current trip schedule prepared by all of the Molokini operators, this will result in displacement of 5 or more operators. Removing more than half of the moorings at Molokini without a plan for additional moorings elsewhere could result in damage to coral at Molokini, in addition to 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.

- 1. No operators will be displaced if 16 commercial vessels and 2 recreational vessels are allowed to be in the Molokini at one time.**

All Molokini operators came together and created a schedule that included modified trip times to spread out use and to reduce the number of vessels in Molokini at one time. The group agreed that currently, no operators will be displaced to other areas if 16 commercial vessels and 2 recreational vessels are allowed to be in Molokini at one time (18 total).

Thank you for your time and consideration of this testimony.

**Testimony of Denver Saxton Coon on behalf of Trilogy Corporation, in Strong Support of HB 1133,
Relating to Marine Life Conservation Districts.**

COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

Rep. Ryan I. Yamane, Chair
Rep. Chris Todd, Vice Chair

Rep. Sharon E. Har Rep. Tina Wildberger
Rep. Nicole E. Lowen Rep. Cynthia Thielen
Rep. David A. Tarnas

NOTICE OF HEARING

DATE: Wednesday, February 6, 2019
TIME: 9:30am
PLACE: Conference Room 325
 State Capitol
 415 South Beretania Street

Chair Yamane, Vice Chair Todd, and members of the WLH committee:

Aloha. My name is Denver Saxton Coon. I am general counsel for Trilogy Corporation dba Trilogy Excursions on the island of Maui. Trilogy currently holds two permits for the Molokini Shoal Marine Life Conservation District (“Molokini MLCD”). We are in **strong support of HB 1133** for the following reasons:

1. **Proposed Regulations are Unnecessary and Unworkable.**

On December 11, 2018, the Department of Aquatic Resources (“DAR” or the “Department”) announced that it would be reducing the number of moorings in the Molokini MLCD from 26 to 12 commercial moorings. DAR stated that this decision had already been made by the Department and that the reduction of moorings was non-negotiable.

Reducing the commercial moorings from 26 to 12 is a more than 50% reduction. Based on an initial evaluation of a 12 mooring plan, 7 companies would be displaced and potentially out of business. In furtherance of the industries commitment to work with DAR, almost all of the current permit holders came together on January 7, 2019, in a unique show of industry cooperation to help DAR meet the goal of reducing the number of moorings in Molokini. However, under no scenario could the group make a 12-mooring system work. The reason for this is that natural weather limitations often only allow vessels to use the area for a few hours in the morning. In addition, it takes an hour and a half to ensure a quality tour and account for unexpected delays. A 12-mooring system with 41 permit holders does not allow enough time to conduct a snorkel or dive tour, and is an unrealistic expectation of the operators.

In addition, there are many days during the year when large south swells or Kona winds make Molokini MLCD the only viable option to run tour. A 12-mooring system would force operators out of the Molokini MLCD with no place to go. This will be aggravated by the fact that the near shore waters of Maui only have a limited number of moorings. Accordingly, any changes to the numbers of vessels at Molokini MLCD must be preceded by the installation of a robust mooring system along the coast. However, until that time, a 20-mooring system will avoid any unnecessary hardship on the operators and employees who depend on Molokini MLCD.

2. Creative Solutions not Clear Hardships

The commercial operators are willing to work with the Department on alternative solutions. One of the first things that should be done is the prohibition of unpermitted vessels. There is currently a loophole in the regulations that allows unpermitted vessels to access Molokini and conduct a “drift” dive. HB 1133 would limit commercial use of Molokini to only permitted vessel. This would go a long way in reducing overcrowding and user conflicts.

The operators are more than willing to work with the Department on developing a strategy to solve problems. However, the reduction of moorings from 26 to 12 is unworkable. You simply cannot put forty people in a room with only enough food for 20 and expect everyone to get along. A 20-vessel system during peak hours is the bare minimum the industry can bare. Please pass HB 1133 with an allowance for 20 permitted vessels at any one time and a cap of 41 Molokini MLCB Permits.

Mahalo,

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

HB-1133

Submitted on: 2/5/2019 9:00:00 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

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

Comments:

Aloha,

I am testifying on the behalf of Maui-Molokai Sea Cruises, we operate Pride of Maui and Leilani out to Molokini crater, both vessles have Molokini permits, we employ 50 people.

I support this bill. This bill allows the 41 rightfully permitted by the DLNR permittees to continue to operate as businesses and provide a service at Molokini crater. That service being; taking eager participants and safely introducing them to the beauty of Molokini marine preserve. At the same time we educate the participants about the fragility of the shoal and ensure that nothing is ever taken, poached from or damaged. No fish are fed, no rubbish ever left, no anchors are dropped. When non commercial operators arrive we ensure they do the same, they do not anchor, we assist them in finding moorings and ensure they too do not inflict any harm on the shoal. We have banned non reef safe sunscreen, provide reef safe sunscreen. We truly take care of the marine preserve. We will continue to do so. Molokini crater is very healthy and that is in thanks to the commercial operators who care deeply about its conservation.

As of now there are 20 moorings and 41 permittees. Depsite this we have all as operators managed to succesfully work together and seamlessly continue to provide access to Molokini for the public to view, to appreciate its beauty.

There has been talk of displacement of the blue trevally at peak usage times at Molokini. While we are concerned about this and will do anything in our means to change this bar not operating; i know there are many other areas of concern for the blue trevally. Namely it is the prize fish for spear fisherman. If we want to help keep the population of blue trevally healthy i propose reduce the amount of catch, the size, perhaps event make it seasonal. That will have a far more permanent and real positive effect on the blue trevally.

Mahalo,

Scott Blish

Operations Manager

HB-1133

Submitted on: 2/5/2019 9:17:00 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Greg Howeth	Lahaina Divers Inc.	Support	No

Comments:

HB-1133

Submitted on: 2/5/2019 9:28:36 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrew mcomb	Individual	Support	No

Comments:

HB-1133

Submitted on: 2/4/2019 2:51:54 PM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Ford	Individual	Support	No

Comments:

I strongly support HB1133 as it provides the Molokini marine life conservation district protection from overcrowding without displacing small businesses that rely on Molokini in their day to day operations.

HB-1133

Submitted on: 2/4/2019 10:22:44 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Greg Shepherd	Individual	Support	No

Comments:

I believe that all permit holders would agree that they are the first line of defense in protecting this asset. I believe that this would still allow the current operators to still operate under this new law.

Thank You

HB-1133

Submitted on: 2/5/2019 7:59:17 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Katie Paki	Individual	Support	No

Comments:

Aloha,

I support Bill HB1133 as it works to protect the marine life and environment, without affecting the small businesses that operate in Molokini Crater.

Thank you for your time,

Katie Paki

HB-1133

Submitted on: 2/5/2019 11:09:20 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

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

Comments:

I am submitting written testimony in opposition to HB1133 . The proposed bill to set a limit of the total number of companies that can be permitted to run operations at Molokini at 41 , and allowing the total amount of vessell in the MLCD at the same time at 20 is unacceptable. Any action toward the conservation of Hawaii’s environment should be taking in consideration. There are different reasons to better manage Molokini and limit vessels. Limiting vessels to a lessen number proposed in this bill will reduce crowding, improving user experience, and reducing impacts to ecosystem.

Thank you for the opportunity to provide you with testimony and once again I humbly ask for your support to oppose to HB1133.

Sincerely,

Itana Silva

HB-1133

Submitted on: 2/5/2019 11:53:54 AM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Barry	Individual	Support	No

Comments:

Aloha Lawmakers,

I support limits for boats in the Molokini crater and on it's back side. I think 20 boats there at once is about 10 to many. This is a fragil ecosystem and overuse is damaging for its environment.

So while I support a limit, I request it be limited to 10 instead of 20.

Mahalo,

Ms. Barbara Barry

LATE

HB-1133

Submitted on: 2/5/2019 7:46:44 PM

Testimony for WLH on 2/6/2019 9:30:00 AM

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

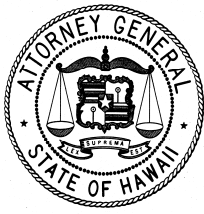
Comments:

Please support HB1133. Reefs are incredibly susceptible to disturbances, not only by anchorage from boats but also by chemicals used in toiletries washing off swimmers and snorkelers.

Thank you,

Andrea Quinn

Kihei, HI



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

LATE

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

HOUSE COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

DATE: Wednesday, February 6, 2019 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 325

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

Chair Yamane 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, to state that, with respect to the Molokini marine life conservation district, there shall be no more than forty-one permits, and no more than twenty permitted vehicles 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.

LATE

I am writing this testimony in opposition of HB 1133, because as the bill is currently written, it is unlikely to meet its stated objectives of preserving the Molokini MLCD. For full disclosure, I am an author of a scientific per-reviewed study into the movements of the MCLD's marine life and I present this testimony only to clarify the proposed, twenty permitted vessels at a given time, exceeds the capacity of the MLCD that was determined by several independent scientific studies.

The Molokini MLCD is one of Hawaii's most important marine reserves and the results of per-reviewed studies into visitor experiences at the MLCD indicate that over 2/3 of all visitors to the MLCD felt crowded and 50% of respondents felt it was unacceptable to have more than 14-15 (small to large boats) in the crater at the same time (Bell et al. 2011; Needham et al. 2011). Additionally, the movements of the MLCDs predatory reef fish showed that 50% of MLCD's Omilu were displaced from within the crater when there were more than 12 boats at a given time (Filous et al. 2017).

The bill states "The purpose of this Act is to preserve Molokini shoal by limiting entry into the Molokini marine life conservation district to forty-one permits and twenty permitted vessels at any given time." Given that there is substantial anthropogenic and biological evidence to suggest the MLCD is impacted by overcrowding at boat numbers that are well below the intensity of twenty vessels, the proposed bill would not address this resource management issue.

References

Bell, C.M., Needham, M.D. and Szuster, B.W., 2011. Congruence among encounters, norms, crowding, and management in a marine protected area. *Environmental Management*, 48(3), pp.499-513.

Filous, A., Friedlander, A.M., Koike, H., Lammers, M., Wong, A., Stone, K. and Sparks, R.T., 2017. Displacement effects of heavy human use on coral reef predators within the Molokini Marine Life Conservation District. *Marine pollution bulletin*, 121(1-2), pp.274-281.

Needham, M.D., Szuster, B.W. and Bell, C.M., 2011. Encounter norms, social carrying capacity indicators, and standards of quality at a marine protected area. *Ocean & coastal management*, 54(8), pp.633-641.

LATE

HB-1133

Submitted on: 2/5/2019 9:18:00 PM

Testimony for WLH on 2/6/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tracy Adams	Individual	Oppose	No

Comments:

I am in support of limiting how many boats are allowed to use this area for commercial recreational trips, however, I oppose the methodology presented. I feel permits should be issued with a per day, staggering schedule and on certain days, no tours should be allowed to enter the marine conservation area, to give the marine life a rest. Similar to what has been done with Hanauma Bay.

Permits should be awarded based on an environmental sustainability best practice of those operators, requiring them to be certified by a sustainability professional, trained/educated in marine science in order to acquire a permit. This will raise the standard of care for all of our protected areas, raise the level of education of the employees working for these operators, and give the visitor a quality, knowledge-based experience while on vacationing in Hawaii.

If we are shooting for sustainable tourism in Hawaii, then these operators need to incorporate certifiable, sustainable business practices into their operation as a requirement for a permit.

Respectfully submitted,
Tracy Adams