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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the Senate Committee on  
WATER AND LAND

Wednesday, February 1, 2023  
1:00 PM

State Capitol, Conference Room 229 & Videoconference

In consideration of  
SENATE BILL 92  
RELATING TO COMMUNITY-BASED SUBSISTENCE FISHING AREAS

Senate Bill 92 proposes to establish a time limitation for Community-Based Subsistence Fishing Area (CBSFA) designations; provided that the Department of Land and Natural Resources (Department) may consider extending a designation in the year prior to the designation's expiration unless the designation is made through statute before its expiration. **The Department appreciates the intent of this bill and offers the following comments.**

Section 188-22.6, Hawaii Revised Statutes (HRS), authorizes the Department to designate CBSFAs through the administrative rulemaking process. CBSFAs are an important tool that enables communities to work closely with the Department in proposing, designing, and implementing management measures to ensure long-term sustainability of nearshore subsistence resources and fishing practices.

Before the Department considers a community's request for a CBSFA designation, the community is required to provide a detailed management plan and record of community engagement and scoping – a process that can take years. This bill suggests that CBSFA designation needs to be temporary in order to allow flexibility in meeting the dynamic needs of communities. However, making CBSFA designations temporary may discourage communities from future collaboration with the Department in managing nearshore resources – collaboration that is crucial to making effective management decisions. Further, this bill arbitrarily singles out CBSFAs as the only type of marine management area (MMA) that would have a time limit,

whereas other MMAs, such as Fishery Management Areas and Marine Life Conservation Districts, would not be subject to the same time limit.

The Department agrees that it is important to ensure that all rules, including CBSFA designations, remain relevant and useful over time and that when rules no longer meet the needs of the community, the rules should be updated. However, the Department suggests that instead of establishing a sunset provision that would automatically remove CBSFA designation after a certain period of time, the Legislature could consider requiring regular reviews of CBSFA designations. Such a requirement is written into the Hā'ena CBSFA rules, section 13-60.8-4(b), Hawaii Administrative Rules, which states: "Five, ten, and twenty years beginning from the effective date of [the Hā'ena CBSFA rules], the department shall hold at least one meeting within the Hā'ena ahupua'a to review the effectiveness of the Hā'ena Community-Based Subsistence Fishing Area, revise the management plan as needed, and consider whether the area should be expanded to include other ahupua'a."

Mahalo for the opportunity to comment on this measure.



# UNIVERSITY OF HAWAII SYSTEM

## ‘ŌNAEHANA KULANUI O HAWAII

### Legislative Testimony

### Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the  
Senate Committee on Water and Land  
Wednesday, February 1, 2023 at 1:00 p.m.

By

Megan Donahue, Interim Director  
Hawaii Institute of Marine Biology

And

Charles "Chip" Fletcher, PhD  
Dean, School of Ocean and Earth Science and Technology

And

Michael Bruno, Provost  
University of Hawaii at Mānoa

#### SB 92 – RELATING TO COMMUNITY-BASED SUBSISTENCE FISHING AREAS

Chair Inouye, Vice Chair Elefante, and Members of the Committee:

Thank you for the opportunity to offer comments on this measure.

The Hawaii Institute of Marine Biology (HIMB) acknowledges the intent of Senate Bill 92 is to garner community-based subsistence fishing area (CBSFA) designations; however, we are concerned that in its current form the intent is not achievable. SB 92 threatens the research projects, activities and initiatives regarding the efficacies of CBSFAs by the researchers and professors at the University of Hawaii at Mānoa (UH Mānoa) that are considered the leaders in the field of conservation world-wide.

The research being produced at the HIMB and at the UH Mānoa's College of Tropical Agriculture and Human Resources' (CTAHR) Department of Natural Resources and Environmental Management, clearly demonstrated that the Hā'ena Community-based Subsistence Fishing Area is a resounding success – both from ecological and sociocultural perspectives.

In addition, this research has proven that the success of CBSFA, the reefs of Hā'ena now hold more and larger resource fishes than similar reefs outside of the CBSFA boundaries. Other research has shown that the fish from reefs of Hā'ena continue to feed not only the people of Hā'ena, but also people around the island of Kaua'i, and throughout the State of Hawaii.

We encourage this committee to defer this measure and thank you again for the opportunity to provide comments on SB 92.



**SB92**  
**RELATING TO COMMUNITY-BASED SUBSISTENCE FISHING AREAS**  
Senate Committee on Water and Land

February 1, 2023

1:00 PM

Room 229

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The Office of Hawaiian Affairs (OHA) **STRONGLY OPPOSES** SB92, which would place a statutory time limit on the very existence of Community-Based Subsistence Fishing Areas, essentially placing a time limit on Native Hawaiian traditional and customary practices.

At a time when much of the world is rallying against unsustainable practices to better prepare ourselves for one of the greatest existential threats to our existence – the climate crisis – this measure would have us undo the hard-fought achievements of our communities to sustainably manage their coastal and marine resources in well-recognized traditional and customary ways that are perpetuated today from millennia before.

Furthermore, OHA wishes to emphasize that Native Hawaiian traditional and customary practices are protected by the Hawai‘i State Constitution.<sup>1</sup> This measure proposes to extinguish the collective Native Hawaiian rights exercised within the very framework designated by the State government to facilitate these protected practices for subsistence, cultural, and religious purposes. As stated by the Division of Aquatic Resources of the State of Hawai‘i Department of Land and Natural Resources:

“CBSFAs represent a state recognized avenue for local community groups to mālama ‘āina by proposing regulatory recommendations and management activities to sustain the health and abundance of marine resources for current and future generations...

“CBSFAs represent a more bottom-up approach to fisheries management that is place-based in nature and community-driven, as well as **an avenue for the DLNR to fulfill its obligation to protect traditional and customary practices as a matter of law, the public trust, and ceded land trust[.]**”<sup>2</sup>

There may very well come a time, when the only remaining sources of food are cultivated in the communities, who understood the value of sustainability and self-sufficiency. OHA urges this committee to **DEFER** SB92. Mahalo nui loa.

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<sup>1</sup> Article XII, Section 7, Haw. Stat. Con.

<sup>2</sup> *Community-based Subsistence Fishing Area Designation Procedures Guide*, DAR-DLNR, 2014.



**Ka Moku'aina 'O Hawai'i Aha Moku O Pae'Aina**

**State of Hawai'i Aha Moku**

**P. O. Box 621**

**Honolulu, Hawaii 96809**

Testimony of the Hawaii State Aha Moku  
Before the Senate Committee on Water and Land

Tuesday, February 1, 2023

1:00 PM

Conference Room 229 & Videoconference

**IN SUPPORT of Senate Bill 81**

Relating to Natural Resource Management

Senate Bill 81 clarifies that the Board of Land and Natural Resources (BLNR) authority shall supersede the Mauna Kea Stewardship and Oversight Authority (MKSOA) for all lands designated under the state conservation district.

**The Hawaii State Aha Moku (Aha Moku) supports this measure.**

Mauna Kea is a sacred place to the host culture, the Native Hawaiians particularly to Moku O Keawe, the Island of Hawaii. Drenched in historic, traditional, and generational knowledge passed down for generations the Mauna connects all six Island Moku – Hamakua, Kohala, Kona, Ka'u, Puna and Hilo. For decades, the kanaka maoli have fought to protect this sacred summit from overuse, commercial entities and western science endeavors that have not taken this place that is so revered by the host culture.

Act 255, SLH (Act 255) established the Mauna Kea Stewardship and Oversight Authority, vesting it with powers and duties previously held by the Board of Land and Natural Resources pursuant to Chapter 171, and the Land Use Commission pursuant to Chapter 205. Upon the expiration of the transition period, all the powers and duties currently held by the BLNR shall be transferred to the Mauna.

The proposed addition to this measure states “provided that the board of land and natural resources shall retain powers and jurisdiction over areas designated under the state conservation district pursuant to chapter 183C.” The MKSOA has not had time to initiate the process through which the transition takes place. The conservation law is a zoning law. Once the MKSOA can draft appropriate rules, we anticipate that these new rules will take place that addresses all issues concerning the Mauna as the entire summit is zoned conservation. The proper zoning will need to be established as the MKSOA rapidly moves forward. The Mauna was never meant to be permanently under the jurisdiction of the state. This measure protects the Mauna during its transition phase.

Respectfully,

Leimana DaMate, Luna Alaka'i/Executive Director

Hawaii State Aha Moku

808-640-1214

Leimana.k.damate@hawaii.gov

*Pae'Aina: Moku O Keawe, Moku O Piilani, Moku O Kanaloa, Nana'i Kaula, Moloka'i Pule O'o, Moku O Kakuhihewa,  
Manokalanipo, Ka'Aina O Kawelonakala*



## SENATE COMMITTEE ON WATER AND LAND

January 31, 2023                      1:00 PM                      Conference Room 229  
In **OPPOSITION** to **SB92**: Relating to Community-Based Subsistence Fishing Areas

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Aloha Chair Inouye, Vice Chair Elefante, and Members of the Committee,

On behalf of our 27,000 members and supporters, the Sierra Club of Hawai'i **OPPOSES SB92**, which could inhibit efforts to implement adaptive, community-driven initiatives that apply kānaka maoli science, knowledge, and values towards the sustainable management of our nearshore fisheries.

The Sierra Club appreciates this measure's recognition of the need for "adaptive" approaches in managing complex and dynamic aquatic ecosystems, which the legislature also recognized in its passage of Act 49 in 2021. However, contrary to the assertion in this bill's preamble, community-based subsistence fishery management areas are not necessarily "permanent," and in fact can now be much more easily adapted as appropriate<sup>1</sup> under the provisions of Act 49. By explicitly requiring community-based management measures to be promulgated under the provisions of Chapter 91, HRS, rather than under the provisions of Act 49, this measure may inadvertently inhibit the adoption and adaptation of community-based subsistence fishing area regulations, undermining its own stated intent to accommodate the changing needs of a community.

In addition, it is the Sierra Club's understanding that subsistence communities' desire for adaptive, community-based management has been largely stymied by unclear statutory rulemaking authorities, delayed legal guidance, and a lack of supportive capacity within the Department of Land and Natural Resources' Division of Aquatic Resources and Attorney General's office. This is evidenced by the years if not decades of community advocacy that have been historically necessary to successfully promulgate rule proposals put forward by subsistence communities, even after they had invested thousands of volunteer hours in data collection, consensus building, and negotiation with stakeholders and Division of Aquatic Resources staff. Providing for the automatic repeal of community-based subsistence fishing area rules without affirmative agency action – action which may be limited by a lack of agency capacity – could only lead to the extinguishment of a community's hard-won successes, and

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<sup>1</sup> Regulatory provisions based on certain site characteristics, such as sensitive nursery areas or habitat or culturally significant sites identified by subsistence practitioners, may also not necessarily warrant frequent adaptation.

render their efforts to ensure an abundant and sustainable fishery for themselves and their future generations moot.

Should the Committee desire to facilitate adaptive fisheries management responsive to the needs of a subsistence community, the Sierra Club of Hawai'i respectfully recommends the consideration of ways to increase the capacity of the Division of Aquatic Resources, Division of Conservation and Resources Enforcement, and Attorney General's office, to work with the community and address their needs through adaptive rulemaking or other means.

Accordingly, the Sierra Club respectfully urge the Committee to **HOLD** SB92. Thank you very much for this opportunity to testify.

**SB-92**

Submitted on: 1/30/2023 9:10:56 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Maki Morinoue	Testifying for HULI PAC	Oppose	Remotely Via Zoom

Comments:

Aloha and mahalo for this opportunity,

**We strongly OPPOSE [SB92!](#)**

I find this bill to be a way of destroying the foundation that aligns with the Hawai'i State Constitution put forth by King Kamehameha III, a LAW that protects natural resources, cultural landscapes, and practices.

Under Hawai'i law, the State and its agencies are obligated to preserve and protect the exercise of traditional and customary Native Hawaiian rights. Hawai'i courts have made clear that traditional and customary practices for subsistence, cultural, and religious purposes "must be protected to the extent feasible" under the Hawai'i Constitution.

King Kamehameha III, Kauikeaouli, developed a system of codified laws, which incorporated protections for ancient Hawaiian customs and usage. The Māhele, a process that took place between 1845 and 1855, transformed Hawai'i's traditional land tenure system into a property regime that incorporated western concepts of private property rights. All land grant awards during the Māhele were intended to be made subject to the rights of native tenants, through either an explicit or implicit "kuleana reservation."

The changes made here by Sen. Lorraine Inouye and Sen. Maile Shimabukuro would not uphold this law and it will bring back viciously extractive behavior with a metaphoric handcuff for DLNR, not allowing them to protect our LAND and NATURAL RESOURCES and instead allowing a once again extractive behavior on our land and ocean that will impact the quality that is currently doing its best to move us towards a more regenerative future.

This bill submitted by Senator Lorraine Inouye (Hilo), will put marine resources at increased risk. SB92 seeks to limit the terms of CBSFAs, and it does so in a way that dissolves the ability of DLNR to institute CBSFAs over time. NOT PROMISING FOR A REGENERATIVE FUTURE!

We are asking you today to KILL THIS BILL immediately. Not sustainable, not in the direction of regenerative future practices, and is highly extractive in mindset.



We are asking you today to vote for this generation and beyond and take personal prerogatives out of politics.

Thank you for your time and we will be observing this bill closely.

Maki Morinoue  
96725



Testimony Before The  
Senate Committee on Water and Land  
**IN OPPOSITION TO SB 92**  
Wednesday, February 1, 2023, 1:00PM, Room 229  
Via Zoom

My name is Kevin Chang and I am the Executive Director of Kua'āina Ulu 'Auamo (or KUA). KUA works to empower grassroots rural and Native Hawaiian mālama 'āina groups to celebrate their places and pass on their traditions to better Hawai'i and achieve 'āina momona—an abundant, productive ecological system that supports community well-being.

KUA employs a community-driven approach that currently supports a network of more than 36 mālama 'āina community groups collectively referred to as E Alu Pū (moving forward together), 38 fishpond projects and practitioners called the Hui Mālama Loko I'a, and the Limu Hui, a growing hui of Limu practitioners. These networks touch on some 70 regions across our state.

**KUA strongly OPPOSES SB 92 which proposes to establish an arbitrary time limitation upon community-based subsistence fishing area (CBSFA) designations.**

The E Alu Pū Network was founded on Moloka'i based on the knowledge that our citizens, especially our Native Hawaiian community, had the traditions, values and desire to perpetuate the traditional cultural practices that support better care and governance of our natural environment. This belief inspired the Community-based Subsistence Fishing Area (CBSFA) law and a community movement to mālama Hawai'i from the place-based and local level. This law has inspired and uplifted efforts at Mo'omomi, Moloka'i; Hā'ena, Kaua'i; Miloli'i, Hawai'i and Kīpahulu, Maui; and many other places where natural resource governance and management are largely absent.

The future of fishery management and sustainable use -its horizon of areas absent of most of humanity reached- is especially effective when done in the places where humanity is most impactful, aware of and interdependent on those resources. The CBSFA law is the only law with the potential to build the trust, stewardship and depth of collaboration needed between government, community, and our places.

**KUA OPPOSES this bill for several reasons:**

- 1- This bill is unnecessary. CBSFA were created to better ensure and adapt to community needs, to support the perpetuation of Native Hawaiian culture, place-based traditional ecological knowledge, the best of contemporary science and the consilience of them all because centralized governance was out of touch, inadequate if not absent and chronically under-resourced.

Contrary to the purported intent of this bill, arbitrary time limitations on CBSFA designations would undermine the purpose of CBSFA to ensure and adapt to community needs. Time limitations would return fisheries back to status quo; centralized top-down governance and management where neither DLNR's mission or community needs were met. CBSFAs already allow for the public to play a role in management, to review the purpose and efficacy of their rules over time (see Hā'ena), to perpetuate traditional cultural practice and values alongside the best of contemporary science and to adapt them as needed. In other words, CBSFA rules are adaptive and are meant to change with community needs in ways most conventional approaches fail to do.

Further, an adaptive management law already exists and the first testing of this law is happening with the participation of the Miloli'i CBSFA where the community fishers are working with scientists and the DLNR to monitor Pāku'iku'i (Achilles Tang) to inform DLNR about what rules can be put in place as populations recover for West Hawai'i.

- 2- Our State Constitution makes clear that our natural and cultural resources, including our nearshore marine resources, are subject to the public trust, and therefore must be managed and protected for the benefit of present and future generations. The Hawai'i State Constitution further requires the state and its agencies to protect and enforce Native Hawaiian rights, including traditional and customary practices associated with, and dependent upon, carefully managed and abundant nearshore resources. This kuleana is an affirmative kuleana. A kuleana which the CBSFA law supports.

To place a time limit on CBSFAs -an affirmative attempt to protect and support Native Hawaiian traditional cultural practice- this bill seems close to what our Supreme Court has characterized as the legislature regulating Native Hawaiian rights out of existence. This bill is anathema to the affirmative kuleana to protect Native Hawaiian traditional cultural practice and is therefore arguably unconstitutional

- 3- CBSFA were the first state efforts to implement an adaptive management approach through place-based management requiring stronger collaboration between government and grassroots efforts. Indeed, as the right to mālama 'āina is acknowledged as a traditional practice it has also served as an adaptive pragmatic approach to natural resource management.

Hawai'i now has an adaptive management law which is only beginning to be utilized. This law will further support adaptive management approaches in partnership with lawai'a across the state including CBSFA. To place a time limit on CBSFA contradicts the principle of adaptive management.

- 4- The bill undermines the hard work and the rigorous outreach and planning process - including the Chapter 91 process- communities endure to establish their CBSFA. Imposing a time limitation on the designation of the CBSFA would not be beneficial to our fishing communities, nor would it adapt to the changing needs of communities that have gone beyond the call to care for their places. The imposition of this bill infringes on our communities' efforts to perpetually manage their sites for abundance as they would be required to exert time and energy petitioning for an extension of their designation.

If we are going to ask this of small rural communities, why not ask this of all other government projects or elections? As an example of the current burdensome requirements, communities have already done the following to develop their CBSFA

packages reaching levels of public outreach and civic participation our government consistently falls short of:

### **Hā'ena**

From 2006-2015, the Hā'ena the community held more than 73 meetings consulting with more than 217 community members including the fisheries committee, kama'āina families, commercial operators, local residents, and state agencies.

### **Mo'omomi**

From 2013 to 2016, the Hui Mālama O Mo'omomi held 23 meetings and public outreach efforts involving more than 809 individuals consisting of hui members, landowners, students, mākuā, and kūpuna, on the Northwest Coast of Moloka'i CBSFA proposal, which had been in discussion and development since the mid-1990s.

At the request of the Department of Land and Natural Resources (DLNR), in 2017 the Hui also participated in additional scoping meetings on Moloka'i, Maui, and O'ahu, to address concerns of commercial fishers and others regarding the CBSFA rule proposal.

### **Miloli'i**

In 2005, CBSFA designation for Miloli'i was established, however without rules and regulations. Since 2011, the community of Miloli'i conducted educational outreach to over 20,470 people, hosted more than 721 participants at 11 annual Lawai'a 'Ohana Camps, and more than 272 engagements with area residents, neighboring communities, fishers, State agencies, legislators and the general public. During 2015 - 2017, 65 village fishermen representing 50 households of Miloli'i lent their generational knowledge of traditional fishing practices that would formulate rules and regulations for the CBSFA, promulgated in 2022.

### **Kīpahulu**

From 2013-2019, Kīpahulu 'Ohana held 66 outreach efforts (e.g., meetings, events, presentations, etc.) involving approximately 2,651 people including members of the East Maui community, DLNR, general public, students, kūpuna, and legislators.

- 5- Beyond an arbitrary time limitation, this statute places the power to determine this limitation wholly with the legislature without community input. This is contrary to the principles of subsidiarity and adaptation of which CBSFA are meant to address where decisions are better made where the impact, and most salient information, understanding, relationships and needs are the greatest.
- 6- This amendment will discourage if not destroy the very long-term partnerships the state has tried to build with communities that are proactive and have the traditional knowledge and willingness to better care for Hawai'i's nearshore fisheries over the years.

These efforts not only support and bolster government functions they benefit fishers, the public and tax payers by supporting healthier environments for the health of all of Hawai'i a foundation for our economy and the appeal of our home to tourists as well. Further, conservative estimates of one community's time and volunteerism amount

anywhere from 12-13,000 hours equating to over a quarter of a million dollars a year. These numbers and the persistence of communities to achieve CBSFA designations and collaborate with our government is an indicator of the passion for caring for Hawai'i in our citizenry.

- 7- Hawai'i's CBSFA law is recognized as innovative by the United Nations and a shining example of what the future of environmental governance and management will be. By passing this bill Hawai'i will signature a departure from its reputation as a national and global leader in environmental governance and co-stewardship with indigenous and local communities.

All the community efforts that had the fortitude to push for CBSFA's (Hā'ena, Mo'omomi, Kīpahulu and Miloli'i) have done so since E Alu Pū began and before; almost 3 decades – - now as far as this official law is concerned. People who dreamed up and started these efforts have died and/or are dying off. So has the traditional knowledge, conservation virtues, ethics and skills that become more fragmented and diminished by the day.

Over those almost 3 decades community efforts have had the goal posts moved on them multiple times by policymakers and the administration from requests to draft professional level reports that the state itself could not do, to expanding and contracting the "community" to suit certain needs, to requiring communities to cover costs and engage in statewide scoping meetings and then, as now, shrinking or altering the boundaries of what community place-based management is. This bill represents yet another attempt to stifle citizen stewardship.

We respect the legislative intent to improve this process but the locus of discussions for that are better served by the communities and the administration on the ground.

Lastly, the communities we work with are committed to ensuring the long-term health of our biocultural resources. They have depended on them for generations. We believe our environment, the foundation of our very existence, is about long-term investment and a vision of 'āina momona. To get there it requires among other things building the pathways for the steps toward greater capacity between government and its community/citizenry to work together toward a culture of collective care and responsibility for our environment together. SB 92 proposes to blow this up.

Please hold and do not pass SB 92.

Aloha 'Āina Momona.

**Testimony of The Nature Conservancy  
Opposing SB 92, Relating to Community-Based Subsistence Fishing Areas.**

**Committee on Water and Land  
February 1, 2023, 1:00 pm  
Conference Room 229 and via Videoconference**

Aloha Chair Inouye, Vice Chair Elefante, and Members of the Committee:

The Nature Conservancy (TNC) strongly opposes SB 92, Relating to Community-Based Subsistence Fishing Areas.

Community-Based Subsistence Fishing Areas (CBSFAs) are unique marine areas co-managed between the State Division of Aquatic Resources and the local community to increase the abundance of resources and protect fishing practices customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion. TNC has provided technical assistance for communities engaged in the CBSFA process and we support these efforts as a community-led approach that blends traditional practices and local expertise with the latest science to develop robust conservation plans in conjunction with the State.

CBSFAs are an example of communities leading the way to determine how best to manage the near-shore resources in their area. Establishing a CBSFA takes years of work between the local community and the State to develop a management approach that facilitates subsistence, cultural, and religious use while ensuring the long-term sustainability of the resource and the many ecosystem services it provides to people. CBSFAs exemplify fair and inclusive stakeholder planning processes, and recognition and respect of the presence, knowledge, and rights of local communities, native Hawaiians, and traditional users. CBSFA rules have and continue to be made through transparent decision-making processes to ensure socially-just actions and outcomes (e.g. food security, social well-being). CBSFAs are models of effective governance and co-management.

Long-term continuous management is essential for all marine managed areas including CBSFAs to reach their goals of increased abundance and ecosystem health. To keep marine resources healthy and abundant, they need: healthy habitats where species can live, eat, grow, and reproduce; large enough area to support species throughout their life cycles; successful reproduction by enough individuals of reproductive size to maintain populations; and effective community-based management with community support and providing community benefits. Long-term protection and management are one of the most effective ways to build up fish populations and large breeders that make more and healthier offspring.

A time limit on CBSFAs or other marine managed area by legislation is unwarranted, arbitrary and not aligned with resource management or community needs, Chapter 91 process, and science. Each community and area has different needs and imposing a time limit through statute would derail the

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hard-won efforts and progress they are making to better manage resources, which benefits native Hawaiians and the people of Hawaii.

Mahalo for the opportunity to testify on SB 92.

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*The Nature Conservancy of Hawai'i and Palmyra is a non-profit 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 nature preserves and work in over 50 coastal communities to help protect and restore the nearshore reefs and fisheries of the main Hawaiian Islands. We forge partnerships with government, private parties, and communities to protect forests and coral reefs for their ecological values and for the many benefits they provide to people.*

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SENATE COMMITTEE ON WATER AND LAND  
SENATOR LORRAINE INOUE, CHAIR  
SENATOR BRANDON ELEFANTE, VICE CHAIR

TESTIMONY **STRONGLY OPPOSING** SENATE BILL 92  
RELATING TO COMMUNITY-BASED SUBSISTENCE FISHING AREAS

Wednesday, February 1, 2023, 1:00 p.m.  
State Capitol, Conference Room 229

Dear Chair Inouye, Vice Chair Elefante, and members of the Committee on Water and Land:

My name is Mahesh Cleveland, and I am an attorney with Earthjustice's Mid-Pacific office in Honolulu. For over thirty years, the Mid-Pacific Office has represented Native Hawaiian fishers, farmers, cultural practitioners, and the general public in countless lawsuits and legal campaigns aimed at ensuring that natural resources are managed and conserved for the benefit of present and future generations, consistent with the State's constitutional public trust duties, our environmental statutes, and the community's environmental interests.

Earthjustice **STRONGLY OPPOSES** Senate Bill 92 ("SB 92"), which would create a statutory expiration date for all Community-Based Subsistence Fishing Area ("CBSFA") designations in Hawai'i. Placing an arbitrary time limit on CBSFAs undermines the Department of Land and Natural Resources' ("DLNR's") authority to manage resources directly in concert with communities to address the specific place-based needs of each area, and, moreover, is an affront to the communities that have spent years or decades engaging with DLNR, the scientific community, and their neighbors to develop management plans that serve both the community's needs and the State's conservation and management objectives.

Hawai'i Revised Statutes ("HRS") § 188-22.6 already provides for tailoring and modification of CBSFA management plans pursuant to HRS chapter 91's rulemaking procedures. The CBSFA statute expressly grants DLNR authority to develop and designate CBSFAs under chapter 91. Administrative rules promulgated under chapter 91, including CBSFA designations are inherently flexible and subject to revision through a public process. As the executive agency with responsibility and expertise to manage natural resources, DLNR is tasked with administering this process and can revisit prior CBSFA designations to address changed circumstances and needs. Passing SB 92, on the other hand, would tie DLNR's hands, and undo the administrative adaptability that is already built into the statute.

For more than ten years, Earthjustice has represented Miloli'i community members in lawsuits seeking to ensure that the negative consequences of commercial aquarium fish



collection—in West Hawai'i and elsewhere—are fully vetted before DLNR authorizes collection permits. Those lawsuits, some of which are still ongoing, reflect the Miloli'i community's commitment to ensure the longevity of their ocean resources so that future generations of Miloli'i have the opportunity to learn pono resource management values and continue passing them down. But while these lawsuits provide valid legal recourse to address certain types of public environmental concerns, CBSFAs provide for a far more collaborative approach that directly assures the community a seat at the table when managing community resources.

Long before any of these lawsuits were initiated, our Miloli'i clients had already been laboring away at their CBSFA rules for years, having achieved designation in 2005. For nearly twenty years now, community members have educated themselves and each other, worked closely with DLNR and local scientists to analyze and integrate fishery data and community expertise, and conducted extensive outreach to government and the broader community, all with the purpose of developing administrative rules for the CBSFA, as directed by HRS § 188-22.6. Only last year, those rules were signed into effect, and now, finally, the Miloli'i community can begin to implement these long-sought and thoroughly vetted management objectives.

It would be an affront to the public, after all the time and energy communities have devoted to complying with the administrative process *already mandated* under the CBSFA law, to now place arbitrary time limits on the effect of CBSFA designations. Instead, we should maintain the proper balance between governmental branches and allow DLNR to continue administering CBSFAs in accordance with the current or changing needs of each specific management area.

For these reasons, Earthjustice **strongly opposes** Senate Bill 92.

Sincerely,



Mahesh Cleveland  
Attorney  
Earthjustice

**SB-92**

Submitted on: 1/28/2023 7:10:31 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Damien Kenison	Testifying for Kauhako Ohana Association	Oppose	Written Testimony Only

Comments:

I am submitting this testimony in opposition to SB92

Why has the CBSFA been singled out for a time limitation? I believe it was made with good intent by our legislators but it is flawed in its intended purpose.

Our Hawaiian communities have banded together to assist the Department of Land and Natural Resources in caring for the ocean and land creating areas where the harvesting of I'a is regulated, according to the needs of the people and the ability of the resource to replenish. Based on knowledge handed down from kupuna, rules were established to ensure that there would be fish for every succeeding generation of lawai'a and their families. Rules are made explicitly for this purpose and not to stop anyone from fishing for no reason.

We all know that the DLNR is the konohiki today and its function is to make sure that the resources are not depleted to the point where we need to severely limit harvesting for all people including Native Hawaiians. Why put a time limit on a process that has been created by a community that is striving to maintain its cultural identity through conventional kapu founded to prevent the unacceptable overharvesting of people from other places who have no ties to that 'aina?

Why, once it is determined that a fishing ground has been replenished, it is time to open it up again to unsustainable, unacceptable, inappropriate harvesting? Please leave the CBSFA's alone and enjoy its I'a appropriately. If people want to harvest unsustainably and inappropriately there are other places where they can do that, not in a Community Based Subsistence Fishing Area.

Please do not discourage people from trying to help the government manage the resources by putting a time limit on the CBSFA's instead, determine what works and change what doesn't with the help of the hoa'aina of that place.

Damien Kenison

Kauhakō Ohana Association

501 c3 Community Organization based in Kauhakō/Ho'okena, South Kona, Hawaii Island

**SB-92**

Submitted on: 1/30/2023 10:48:34 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jean Jewell	Testifying for Destination Kona Coast	Oppose	Written Testimony Only

Comments:

I strongly oppose SB92 that will put our fragile marine life at risk. SB92 seeks to limit the terms of CBSGAs and will erode the ability of DLNR to institute CBSFAs over time. We must be as strict as we can to protect our natural resources.

As a resident of Kona for 50 years and owner of boating businesses, I have seen how quickly our marine fish began disappearing on our reefs. Since regulation, that kept the fish collectors at bay, things have been improving.

Do nothing to make it easier for them!!

jean jewell

**SB-92**

Submitted on: 1/30/2023 11:48:34 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sylvia Dolena	Testifying for Aloha Animal Advocates	Oppose	Written Testimony Only

Comments:

Please oppose SB82.

**STRONGLY OPPOSE SB92**

Submitted by Senator Lorraine Inouye (Hilo), which will put marine resources at increased risk. SB92 seeks to limit the terms of CBSFAs, and it does so in a way that erodes the ability of DLNR to institute CBSFAs over time. NOT PROMISING FOR A REGENERATIVE FUTURE! Degrades DLNR's ability to protect our natural and cultural resources!

Sylvia Dolena

Aloha Animal Advocates

Aloha Lokahi Assoc.

**SB-92**

Submitted on: 1/30/2023 2:14:27 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jenny Yagodich	Testifying for Malama Pupukeya-Waimea	Oppose	Written Testimony Only

Comments:

Aloha Chair Inouye, Vice Chair Elefante, and the Committee on Water and Land,

We respectfully oppose SB 92 Relating to Community-Based Subsistence Fishing Areas which would establish a time limitation for community-based subsistence fishing area designations; provided that the Department of Land and Natural Resources may consider extending a designation in the year prior to the designation's expiration unless the designation is made through statute before its expiration.

Community-Based Subsistence Fishing Areas are proposed by Hawaiian communities who have spent generations understanding the delicate balance within their shorelines and who have spent decades engaging their community to come up with place-based rules that ensure both productive subsistence fishing/gathering for all and abundant resources for future generations. Once established, they should remain so, so that kūpuna who fight for these protections now can rest knowing their hard work and dedicaton will not be undone, that traditional practices will remain intact, and that generations from now, thier great-great-great grandchildren will have these same reaources to harvest for their 'ohana.

Respectfully, please do not advance this bill.

Mahalo nui



January 30, 2023

Senator Lorraine R. Inouye, Chair  
Senator Brandon J.C. Elefante, Vice Chair  
COMMITTEE ON WATER AND LAND

DATE: Wednesday, February 1, 2023  
TIME: 1:00 PM

Regarding: SB 92 RELATING TO COMMUNITY-BASED SUBSISTENCE FISHING

### **Support**

HFACT is a not-for-profit, IRS 501c(5) organization, that advocates for small boat commercial, non-commercial, and recreational fishermen throughout Hawaii. HFACT board members sit on a number of federal fisheries management and endangered species advisory committees as well as state marine and coastal zone advisory committees; and, HFACT is thoroughly familiar with and participates in ocean and marine resource management in Hawaii and the central Pacific.

HFACT supports SB92. The management plan and rules for any designated marine managed area, including community based subsistence fishing areas must have a time limit stated in the management plan and rules. Currently the state has a large number of designated marine managed areas that neither have a management plan nor a stated purpose of the designation as a managed area. Often then marine areas were originally designated for reasons other than ecological benefit. Sometime a managed area is created due to an activist individual or group for the purpose of excluding targeted activities. Additionally, no ecological monitoring or management may be occurring. By establishing a time limit and allowing a designation of a managed area to end, the area can revert to being unmanaged, thus saving the state money and putting the money and effort into marine areas that truly need management.

Having a time limit also creates a sense of urgency and accountability for the managing agency, in this case the Division of Aquatic Resources (DAR). This gives DAR a deadline to improve the area and meet any goal and objective in the designating management plan.

If an area is being managed well, then DAR, under this bill, can extend the designation and continue to manage the area for improvement.

Another reason for a time limit is that some managed areas were created by community members, but over time either community members or community group have left the area or have lost interest. In these cases, the time limit will allow for the designation to end.

***Hawai'i Fishermen's Alliance for Conservation and Tradition, Inc.***  
***75-796 Hiona Street, Holualoa HI 96725***

SB92 give the state additional flexibility in the management of marine managed areas, including community based subsistence fishing areas. SB92 does not take away rights of communities.

There are many good reasons for a time limit, and no down side. HFACT asks that the committee support SB92.

HFACT thanks the chair, vice-chair, and committee members for this opportunity to provide comment and to assist in providing food to the people of Hawaii and to assist in the conservation of Hawaii's natural resources.

Sincerely and Aloha,



Phil Fernandez  
President

**SB-92**

Submitted on: 1/30/2023 7:04:54 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
R A Culbertson	Testifying for Big Island Reef Keepers hui	Oppose	Written Testimony Only

Comments:

Aloha Senators!

I and others of my association strongly oppose this apparently misguided legislation. It appears to undercut the process and good will built over many years between the DLNR and various coastal communities struggling to get a handle on appropriate protections for local marine resources.

In this era of flagging trust in government, this one initiative (CBSFA's) had been a bright spot of effective collaborations. Why jeopardize a good thing?



**SB-92**

Submitted on: 1/30/2023 11:28:12 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Testifying for Hawaii Reef and Ocean Coalition	Oppose	Written Testimony Only

Comments:

Aloha Chair Inouye, Vice Chair Elefante, and members of the committee.

Hawaii Reef and Ocean Coalition respectfully **OPPOSES** SB92. Community based subsistence fishing areas are critical to the environment, community engagement, malama 'aina stewardship, and cultural traditions of Hawaii. They can help reverse declines in fishery health throughout the State. Their designations should not be subject to artificial time limitations.

Please defer this bill!

Mahalo!

Hawaii Reef and Ocean Coalition (by Ted Bohlen)

**SB-92**

Submitted on: 1/31/2023 6:26:45 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Scott Crawford	Testifying for Kipahulu Ohana, Inc.	Oppose	Written Testimony Only

Comments:

I am writing on behalf of Kipahulu Ohana, Inc. to state the strong opposition to SB92.

In this matter, Kipahulu Ohana, Inc. represents over 600 fishers and families who practice, support or depend on subsistence fishing in East Maui, who have signed a petition in support of the Kipahulu CBSFA.

It appears that this proposed bill is being put forward by a vocal but very small minority who don't actually represent fishing communities, but are trying to undermine the ability of Hawaiian communities to practice their subsistence Hawaiian lifestyle in co-management relationship with the state.

In partnership with DAR, Kipahulu Ohana has led a process for over 10 years to gather input from fishers, resource users, scientists, teachers and agencies to develop proposed rules that are based on traditional practice and sound science related to the specific ecological and socio-cultural situation of Kipahulu. Numerous opportunities have been provided for community and public input into the proposed rules package, and many compromises and adjustments to the package have been made based on feedback received from fishers and resource users, as well as DOCARE.

There is absolutely no good reason to place an arbitrary time limit on CBSFAs through legislation that undermines all the hard work the communities and agencies have done over dozens of meetings over many years.

This bill is also a blatant example of a violation of the Supreme Court PASH principle, seeking to regulate Native Hawaiians rights out of existence by placing an expiration on CBSFA, which are the first policies to actually affirmatively protect traditional cultural practice in natural resource management.

On behalf of the Kipahulu Ohana, Inc and over 600 fishers and families in East Maui, we state our strong opposition to SB92 and urge you to kill the bill in committee.

Sincerely,

Scott Crawford

Executive Director, Kipahulu Ohana, Inc.

**SB-92**

Submitted on: 1/31/2023 8:51:32 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Mike Nakachi	Testifying for Moana Ohana	Oppose	Written Testimony Only

Comments:

Aloha Mai Kakou,

My name is Mike Nakachi, from Waikoloa in Hawaii. Kanaka Maoli with Mookuauhau on a practice of Malama...

Been involved in this process since the late 80's,

CBSFA's should be the will of the communities that come forward with the time and effort they put into the chapter 91 process takes decades, for this kind of bill is Hewa and undermines the trust that is built in that long and arduous. Too put time limits on these communities is wrong. This bill smells fishy and like many are not well thought out in the best interest of these communities and lineal descendants of place!

Cannot support! let the La hui decide on what they want!

**SB-92**

Submitted on: 1/31/2023 11:15:43 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
William Mae-Huihui	Testifying for Miloli'i Makai Watch	Oppose	Written Testimony Only

Comments:

DATE: Wednesday, February 1, 2023

TIME: 1:00 PM

Conference Room 229 & Videoconference

PLACE:

State Capitol

Aloha Chair Inouye, Vice Chair Elefante, and members of the committee:

My name is William Mae-Huihui, I am a lawai'a practitioner of Miloli'i on the Island of Hawaii, Kako'o to Kalanihale, Apprentice of Mohala Na Konohiki, and an active member of the Miloli'i Makai Watch.

I am writing in opposition to SB 92 Relating to Community-Based Subsistence Fishing Areas. This bill will establish a time limitation for community-based subsistence fishing area designations; provided that the Department of Land and Natural Resources may consider extending a designation in the year prior to the designation's expiration unless the designation is made through statute before its expiration.

CBSFA designations are carefully crafted as a co-management approach between native Hawaiian cultural practitioners and DLNR with the goal of restoring and sustaining fisheries for communities. To date, the reef ecosystems of all current CBSFAs remain in a recovery phase due to past overfishing and habitat degradation from illegal and/or improper use. To suggest that the goals of a CBSFA are term-limited is to neither recognize how long these ecosystems take to recover nor how quickly they can again be degraded when overuse returns. CBSFA term limits make no sense in the context of restoring and sustaining ecological resources and cultural practices over the long run.

Miloli'i Community Based Subsistence Fishing Area (CBSFA) took nearly 2 decades to accomplish. I have been a proud supporter and advocate for the last few years of Miloli'i Community Based Subsistence Fishing Area, and to hear that a time limit may be implemented makes it even harder for communities wishing to create CBSFA for their area. Time has no

measure when it comes to replenishing resources and creating sustainable ecosystems for future generations.

As a member of Miloli'i Makai Watch we share new rules, regulations, and ocean safety. Having a removal of rules after all the outreach and sharing our group does would confuse not only fishers but may have them lose trust with Miloli'i Makai Watch due to changing of rules we have shared.

Through these teachings, we foster our youth and family learners to become stewards of Miloli'i and their homes in the way we know how – as Native Hawaiians practicing our cultural and traditional fishing practices. In 2022, we promulgated our rules and regulations that established Miloli'i Community-Based Subsistence Fishing Area (CBSFA) and Kalanihale as co-manager.

William Mae-Huihui

Miloli'i Makai Watch

Respectfully, please do not advance this bill.

**PROTECT  
KEOPUKA  
'OHANA**



P.O. Box 166 Honaunau, Hawaii 96726  
808-938-5340 [konajack@earthlink.net](mailto:konajack@earthlink.net)

January 31, 2023

Aloha ,

Protect Keopuka Ohana, a coalition of environmental activists and Hawaiian cultural practitioners, **opposes the passage of SB 92** instituting time restrictions for completing the process of creating **Community Based Subsistence Fishing Areas**. The years-long process, created by the state, is complex and difficult. Any community based governance program necessarily involves lots of discussion and input from all perspectives, in any given community. By launching this process, the community takes a big step and makes a huge commitment to see the process through. Let time take its course. It is not the Hawaiian way to shorten the process for the sake of expediency.

Sincerely,

Jim Medeiros Sr.  
President  
Protect Keopuka Ohana

HUI OHANA O HONAUNAU  
P.O. Box 332 Honaunau, Hawaii 96726  
808-938-5340 kahunaiwi@icloud.com

January 31, 2023

Aloha ,

Protect Keopuka Ohana, a coalition of environmental activists and Hawaiian cultural practitioners, **opposes the passage of SB 92** instituting time restrictions for completing the process of creating **Community Based Subsistence Fishing Areas**. The years-long process, created by the state, is complex and difficult. Any community based governance program necessarily involves lots of discussion and input from all perspectives, in any given community. By launching this process, the community takes a big step and makes a huge commitment to see the process through. Let time take its course. It is not the Hawaiian way to shorten the process for the sake of expediency.

Sincerely,



Jim Medeiros Sr.  
Vice President  
Hui Ohana O Honaunau





**Senate Committee on Water & Land**

**Hawai'i Alliance for Progressive Action (HAPA) Supports: SB92**

Wednesday, February 1st, 2023 at 1 p.m. in Conference Room 229

Aloha Chair Inouye, Vice Chair Elefante and Members of the Committee,

HAPA **opposes SB92**, which imposes a time limitation for community-based subsistence fishing area designations.

Community-Based Subsistence Fishing Areas are areas where local subsistence fishing is allowed but commercial harvest is restricted. These areas allow local traditions and fishing while helping to stop over harvesting, poaching or commercial harvest. These fishing areas are an important step in the right direction to better manage important coastal fisheries in a way that engages and coexists with local communities and fishermen.

Please do not support SB92 or measures that strip back the progress made in recent years to establish subsistence fishing areas and better managed coastal fisheries.

Please defer SB92 and do not impose time limitations for community-based subsistence fishing area designations.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', written in a cursive style.

Anne Frederick  
Executive Director



## Kuakini Hawaiian Civic Club of Kona

Kona, Hawai'i

### SB 92

RELATING TO COMMUNITY-BASED SUBSISTENCE FISHING AREAS.

Senate Committee on Water and Land

February 1, 2023 1:00 P.M. Room 229

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The Kuakini Hawaiian Civic Club of Kona **STRONGLY OPPOSES SB92**, which imposes a time limit on Community-Based Subsistence Fishing Areas, and places limitations on Native Hawaiian traditional, customary and spiritual practices.

The people of Hawai'i should **NOT** have to struggle to convince our lawmakers about Native Hawaiian practices being protected by the State's constitution. However, this measure deliberately surpasses the State's constitutional obligation to Native Hawaiian practices for subsistence, culture, and religious purposes. Further, SB92 undermines community-based stewardship to which traditional knowledge hold data that are centuries older than this country, and plays a vital role in addressing climate changes that negatively impact subsistence and economic development in our communities.

Kuakini Hawaiian Civic Club of Kona is chartered by the Association of Hawaiian Civic Clubs, whose strategic point include "advocating for preservation, protection, and stewardship of land, watersheds, ocean resources, significant cultural sites, traditional practices, and cultural intellectual property, while balancing our use of resources for housing, employment, economic opportunity, health and wellness, and education."

We urge this committee to DEFER this measure.

Mahalo nui,  
Shane Palacat-Nelsen  
President



January 31, 2023  
Me ka ha'aha'a,

I am Hannah Kihalani Springer, a kama'āina of Ka'ūpūlehu, North Kona, member of the Ka'ūpūlehu Marine Life Advisory Committee (KMLAC). On behalf of the KMLAC, we are **opposed to SB 92** Relating to Community-Based Subsistence Fishing Areas.

I have been involved with the Ka'ūpūlehu Marine Life Advisory Committee (KMLAC) since its inception. The KMLAC has worked with the State of Hawai'i and other like-minded communities across the pae 'āina Hawai'i to foster the civic engagement necessary to accomplish the place and community-based fisheries management that has been proven across the pae 'āina, to improve the health of many places and the people who call them home.

The KMLAC has worked within the Administrative Rules for the West Hawai'i Regional Fishery Management Area to engage each other and those around us in an inclusive and adaptive manner.

Adaptive management requires the trust and respect of the citizens and the government for each other and for the collective that we form together.

To that end, and supportive of each other, communities have and are crafting fishery management strategies which protect the fisheries which support the health of Hawai'i nei and which reaffirm the practices of vibrant and healthy communities, intent on exercising and sharing Hawaiian sensibility related to the culture of the subsistence lifestyle, including robust spiritual and ceremonial expression.

Adaptive management requires careful, and continual, monitoring, refinement, and adjustment. These are the observations and adjustments that should determine the circumstances of the fishery, including the duration of any and all strategies.

The changes suggested to the Community Based Subsistence Fishing Area designations would undermine the trust and respect noted above, as well as discourage on-going community efforts and stifle future aspirations to Community Based Subsistence Fisheries Management.

An important strategy that would foster the trust and respect mentioned above and move us forward together in a progressive and productive fashion, would be to increase the rule making, funding, and enforcement mechanisms which support the work of the Division of Aquatic Resources, the Division of Conservation and Resources Enforcement, and the Attorney General's Office to accomplish the relevance and benefit intended by this measure. Please, consider that instead.

'O mākou nō me ka 'oia'i'o,

Hannah Kihalani Springer

**LATE**

1 February 2023  
Kihei, Maui, Hawaii

Dear Chair Inouye, Vice Chair Elefante, and Members of the Senate Water and Land Committee,

I am presenting this testimony on behalf of the Maui Nui Marine Resource Council to state our strong opposition to SB92, related to Community-Based Subsistence Fishing Areas. Over 600 fishers and families who practice, support, or depend on subsistence fishing in East Maui, have signed a petition in support of the Kipahulu CBSFA and in support of Hawaiian communities to practice their Hawaiian subsistence lifestyle as co-managers and partners with the state.

Placing an arbitrary time limit on CBSFAs through legislation undermines the years of hard work the communities and agencies have expended in developing the Kipahulu CBSFA. The Kipahulu Ohana has partnered with DAR during a ten-year process to gather input from stakeholders, fishers, resource users, scientists, teachers, and agencies and has done so to develop a proposal for inclusive, place-based management rules. These rules are derived from both traditional practice and sound science tailored to the specific ecological and socio-cultural environment of Kipahulu. Numerous opportunities were provided for the community and public input into the proposed rules package. Many compromises and adjustments to the package were made based on feedback received from fishers, resource users, and DOCARE.

By creating an arbitrary expiration date for CBSFAs, subject solely to an extension by Department of Land and Natural Resources staff, this bill threatens a premature end to what should be a sustainable fisheries management success story. It further places an unnecessary burden on an already overburdened, understaffed DLNR.

Please do not arbitrarily discard the efforts of community members who have dedicated years of their lives to perpetuating their nearshore fisheries and subsistence practices. The stakeholders in the effort to create Kipahulu CBSFA, which includes the state, have sought to work together to effectively manage Hawai'i natural resources and create a resilient and sustainable Hawai'i for future generations to enjoy. Again, in agreement with and support of the over 600 fishers and families in East Maui that petitioned against SB92, we kindly urge the committee to HOLD SB92. Mahalo nui for allowing me to testify on this important matter.

John Starmer,



Chief Scientist and Communications Coordinator,  
Maui Nui Marine Resource Council

## U'ilani Naipo

Testimony In OPPOSITION to SB 92  
Wednesday, February 1, 2023 1:00PM

Aloha Chair Inouye, Vice Chair Elefante, and members of the Committee,

I am U'ilani Naipo and I am in strong and firm opposition to SB 92 Relating to Community-Based Subsistence Fishing Areas. This bill will impose a time limitation for community-based subsistence fishing area designations.

I am a lineal descendant of Miloli'i, Kapalilua, Kona Hema. Collectively with my community, under the non-profit organization of Kalanihale, we serve as co-manager with the State, for the Miloli'i CBSFA.

CBSFA designation was promulgated for Miloli'i in 2005, however without rules and regulations.

Since 2011, Miloli'i has:

- conducted educational outreach to a population of over 20,470,
- hosted more than 721 participants at (11) annual Lawai'a 'Ohana Camps,
- and more than 272 engagements with area residents, neighboring communities, fishers, State agencies, legislators and the general public.

All of this could not have been accomplished without the generous support of partners and funding sponsors who chose to invest in us, our traditional practices, our lifestyle.

### **This bill will place an expiration on all that investment!**

CBSFA is one of if not the least used designations that we as Hawaiian communities seek to stake claim to because of the tremendous effort and commitment it requires. Since 1994 when DLNR was given the language and authority to work with communities to establish CBSFAs, we only have 2 today.

During 2015 - 2017, 65 Miloli'i fishermen representing 50 village households lent their generational knowledge of traditional fishing practices that would formulate rules and regulations for the CBSFA, promulgated in 2022.

Since 2017, biological monitoring and intertidal surveying began for a prioritized list of managed species. These are conducted by local community members in collaboration with marine scientists and researchers – an ideal model of

place-based indigenous knowledge and western science disciplines to collaborate the recovery of abundance to our nearshore waters.

**This bill places an expiration on those efforts and disassembles key resource management partnerships.**

As part of Miloli'i's commitment to stewardship and traditional fishing practices, the following strategies were developed

- Mohala Nā Konohiki Miloli'i Apprentices under Uncle Mac Poepoe - learning Hawaiian traditional natural resource management disciplines, konohiki practices.
- North and south boundaries of our CBSFA abuts Natural Area Reserves which DOFAW manages and provides protection for its natural land resources. Miloli'i CBSFA similarly mirrors that protection for marine resources.
- Miloli'i Makai Watch in partnership with DOCARE, trained village and local community volunteer members provide onsite and on water "watch" and outreach to fishers and visitors for the 18.6 mile nearshore area of the CBSFA.

**An expiration on CBSFA designation will increase the need for DOCARE and outreach that currently exists as part of our CBSFA support model.**

CBSFAs are designated *"for the purpose of reaffirming and protecting fishing practices customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion."* – [§188-22.6]. *Designation of community-based subsistence fishing area.*

- (1) *"Native Hawaiian" means any descendant of the races inhabiting the Hawaiian Islands prior to 1778; and*
- (2) *"Subsistence" means the customary and traditional native Hawaiian uses of renewable ocean resources for direct personal or family consumption or sharing.*

**This bill will place an expiration date to our indelible Native Hawaiian rights, written in our Hawai'i State Constitution, asserted in our Paoakalani Declaration, and upheld in our Supreme Court.**

I am in strong and firm opposition to bill SB92. I urge you not to move this bill forward.

Mahalo!

**SB-92**

Submitted on: 1/31/2023 11:34:30 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kim Koch	Individual	Support	Remotely Via Zoom

Comments:

Strong support



**SB-92**

Submitted on: 1/31/2023 12:08:28 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kaimi	Testifying for Kalanihale	Oppose	Remotely Via Zoom

Comments:

To the Committee on Water and Land

Re: Testimony opposing SB 92

Feb. 1, 2023

Aloha Chair Inouye and member of the Committee on Water and Land:

My name is Ka’imi Kaupiko , executive director of Kalanihale. Our organization was the community organization along with DAR that pushed and pulled our CBSFA over the goal line. I am a resident of Milolii, one of Hawaii’s last fishing village. I am writing in opposition to SB 92 which proposes to put time limits on Community Based Subsistence Area designations (CBSFA).

Milolii is the second community to receive designation with rules adaption. This 18.6 miles of coastline is an important part of our story and for something we at Kalanihale holds like a badge of honor. The history of CBSFA designations affirm Native Hawaiian Traditional and Customary subsistence gathering rights as protected by the Hawaii State Constitution. By creating, vetting and approving a resource management plan for the designated areas the DLNR again affirms that communities who engage in subsistence fishing do so in perpetuity as intended and protected under the Hawaii State Constitution.

SB 92 would place a time limit on a constitutionally protected right. Milolii just received this designation and this committee wants to place time limits but we don’t understand why or what issues have CBSFA caused to the collective. The Legislature cites that the needs of

community's change over time and that they must adapt. Indeed, Native Hawaiians have been subject to the most radical changes and proven to be the most adaptive given Hawaii's history. By design CBSFA management rules are already adaptive and resilient. They take into consideration both Traditional and Customary best practices and modern science-based practices. Progress is measured regularly with the goal of achieving abundance. The Legislature has always encouraged communities to participate in restoring abundance.

By imposing time limits, CBSFA applicants may feel pressured to meet artificial deadlines and/or achieve arbitrary results. This measure does not serve to encourage community engagement in environmental restoration and management and would not serve to further the State's goals and responsibilities for better resource management.

CBSFA's are resource management plans and should not be seen as a permit or a license. They are adaptive and not extractive. While the needs of communities will change, those that chose to incorporate CBSFA designations and rule making are specifically hoping for a constancy in their resources. When approving the very first CBSFA designation for Haena, one BLNR member noted that the 60 years old "experiment" under State resource management has not born fruit and that the State should give way to more community driven resource management alternatives.

I humbly submit this in opposition of SB 92,

Please call me if you have any further questions and concerns at 808-937-1310

Ka'imi Kaupiko

89-1831 Milolii Road

captain Cook Hi 96704

Laila Kaupu  
Miloli'i, Kapalilua  
Moku o Hawai'i  
January 31,2023

DATE: Wednesday, February 1, 2023  
TIME: 1:00 PM  
PLACE: Conference Room 229 & Videoconference  
State Capitol

Aloha Chair Inouye, Vice Chair Elefante, and members of the committee:

I am Laila Kaupu and I am in **STRONG OPPOSITION** of **SB92** pertaining to imposing a time limitation on Community-Based Subsistence Fishing Areas.

As a 5th generation 'opelu lawai'a and lineal descendent of Miloli'i. Doing and continuing traditional fishing practices for subsistence living is generationally handed down here. "Subsistence" means the customary and traditional native Hawaiian uses of renewable ocean resources for direct personal or family consumption or sharing. As a native Hawaiian, this is our constitutional right and the CBSFA law supports exactly that. To continue with SB92 is to do away with all of that.

Who better to know, than the people of the place. From kupuna mo'olelo, generational knowledge and years of kilo or traditional observations, we were taught to

- identify traditional landmarks visible by sea
- how to use these landmarks to identify ko'a (or fish housings)
- and understanding the convergence of the nutrient-rich Kona and Ka'ū currents that feed and sustain marine resources up and down the coastline of Miloli'i.

What I speak of is a repeat of the push we had to take on, to help State agencies understand that this is us, Miloli'i. I speak on behalf of the Village community of Miloli'i, those seen and unseen, those who call the Last Known Fishing Village in Hawai'i, home. I speak for those that call the continuance of stewardship and traditional fishing practice of subsistence living, a lifestyle. All that push would be like it never happened, thanks to SB92.

From my perspective, time limiting CBSFA's is removing CBSFA's, the vital resource needs of communities and their efforts and the co-management building block of trust. Removing CBSFA's is removing the rules that go with it. Rules that reflect the knowledge base of the place, the knowledge base of the people from the place, and not to mention displacing all the hanahana done by the people of the place, mind you decades of hanahana.

In 2018, under the keen guidance of Uncle Mac Poepoe and Kehau Springer, **Mohala Na Konohiki**, a grassroots, lawai'a pono and stewardship management of place-based knowledge efforts was born. An Apprenticeship Program one can't just apply for. To have the privilege of being a Kupuna's bag girl is a practice of the old ways. They choose you, you do not choose them.

A time where the - never ask why, just watch and learn, and the pa'a ka waha hana ka lima was and still is one of the many values of life. We still live in these times even though generations have passed on. It's the Hawaiian traditions, cultural practices, Hawaiian values, codes of conduct, and knowing what you are going to give back before even taking, it is that in which the word Subsistence, is what we continue to thrive on and live by. A program based on understanding and implementing traditional and cultural management practices of place with the integration of western science and modern tools.

I, along with some 'ohana of Miloli'i, have had the privilege of being that Kupuna's bag man and we continue to dive deeper into these lawai'a pono practices of subsistence fishing. The Mohala Nā Konohiki Apprenticeship program, helps us to get educated, grow respect and grow into becoming better stewards for our 'āina. So we can do better to mālama 'āina.

This is our commitment to our place, to our CBSFA. Mahalo to all the partnerships and NGO's for financially stabling our efforts, but this is Miloli'i.

We, the MNK apprentices, now have the privilege to search for our own bag handlers through our **2022 Mohala Na Konohiki JUNIOR Apprenticeship Program**. Like I mentioned earlier these practices are generationally handed down, and this program paves that way for our keiki to also become better stewards and continue to mālama 'āina. As a mother to an upcoming waterman and lawai'a, this too is my commitment. To feed and be fed, hānai!

This is heart wrenching! Now, not even 6 months into the passing of the Miloli'i CBSFA management rules we are here, holding breath again to save our traditions and practices, let alone our home. A time limitation shouldn't be a decision made by the legislature, that time limitation should come from the community who best know their resources and their partners. Hence the CBSFA!

Respectfully, please do not advance this bill.

**SB-92**

Submitted on: 1/30/2023 7:16:03 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
noriko donna	Individual	Oppose	Written Testimony Only

Comments:

strongly oppose

**SB-92**

Submitted on: 1/28/2023 5:43:33 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Barbara Bell	Individual	Oppose	Written Testimony Only

Comments:

Barbara Bell

69-1536 Puako Beach Drive, Kamuela, HI 96743

RE: Senate Bill 92

January 28, 2023

Dear Chairperson and Committee members,

Please do not pass this bill. It takes away a tool which has proven to be very effective. If people know an area is off limits for fishing, or other depletions of the ocean, they will either poach very carefully, or not go there. If it is sometimes available, sometimes not, there is just confusion.

I think we all know how hard it is for the general public to keep up with rules, so please don't allow community-based subsistence fishing area designations to change once they have been designated.

The ocean, the reefs, and all the creatures in the ocean need our help!

Sincerely, Barbara Bell

28 January 2023

I am a kama'aina science veteran of Hawai'i, with more than 800 scientific publications and a CV indicating decades of focused research on Hawai'i's land and ocean resources and its people. I work closely with County, State, and federal agencies, the University of Hawai'i and several other universities, as well as numerous non-profit (including native Hawaiian) organizations across the State. I submit this testimony as a private citizen, but also as someone well-known for our detailed, long-term monitoring and research across the eight main Hawaiian islands.

I submit this testimony in strong opposition to SB92. Specifically, I oppose term limits on Community-based Subsistence Fishing Area (CBSFA) designations for the following reasons:

1. Hawaiian cultural practices date back more than 1200 years, if not longer. CBSFA designations are carefully crafted as a co-management approach between native Hawaiian cultural practitioners and DLNR with the goal of restoring and sustaining fisheries for communities. To date, the reef ecosystems of all current CBSFAs remain in a recovery phase due to past over-fishing and habitat degradation from illegal and/or improper use. To suggest that the goals of a CBSFA are term-limited is to neither recognize how long these ecosystems take to recover nor how quickly they can again be degraded when over-use returns. CBSFA term limits make no sense in the context of restoring and sustaining ecological resources and cultural practices over the long run.
2. Term limits on CBSFAs could lead to changing rules over time. The education process that is undertaken by CBSFA managers and support groups takes years to deliver to and instill in resident and visitor users of the resource. Term limits will cause confusion and reduction in the long-term efficacy of the marine stewardship effort.
3. The recovery phase of marine resources within CBSFAs will range from years to decades depending upon location, past over use, and other factors. Setting term limits on CBSFAs will likely impair the restoration process, thereby keeping cultural practices that rely upon restored resources at an impoverished level.
4. From a governance perspective, term limits will make it even more difficult for DLNR to work with communities to invest in their cultural and ecological futures if the long-term outlook is likely to change and remain uncertain.

Very Respectfully,

Greg Asner PhD

Hilo HI 96720

**SB-92**

Submitted on: 1/29/2023 11:59:12 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Robert Douglas	Individual	Oppose	Written Testimony Only

Comments:

Very strong opposition.



**SB-92**

Submitted on: 1/29/2023 1:14:07 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Alexia Akbay	Individual	Oppose	Written Testimony Only

Comments:

Alohe e Senate Water and Land Chair, Senator Inouye, and Committee,

I am writing as an environmental scientist and business owner in Kailua-Kona, HI to oppose SB92. While the bill's intent is to adapt to changing community needs, the omission of a 'valid designation' period (a year based term) from the written bill makes it clear that community needs have not been thoroughly explored and/or addressed prior to introducing this bill.

The reality on the ground provides the following constraints when proposing an expiration period:

- 1) The recovery phase within a CBSFA takes years to decades.
- 2) Term limits will make it more difficult for DLNR to work thoroughly with communities to address all needs and concerns when designing plans -- community backlash as a result is inevitable.
- 3) Changing rules over time will cause confusion with the regulations, decreasing adherence to the plan when it is potentially in flux.

With gratitude,

Alexia

**SB-92**

Submitted on: 1/29/2023 3:58:28 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sara Fuller	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB92.

SB92 puts marine resources at an increased risk.

We need to be walking in the direction of establishing a path of long term marine sustainability for the People of Hawaii and SB92 does not do this.

Please oppose SB92

**SB-92**

Submitted on: 1/30/2023 9:05:30 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
tlaloc tokuda	Individual	Oppose	Written Testimony Only

Comments:

dear Chair, VICE Chair & Committee,

I strongly oppose this bill. The bill will put marine resources at increased risk. SB92 seeks to limit the terms of CBSFAs, and it does so in a way that erodes the ability of DLNR to institute CBSFAs over time. **NOT PROMISING FOR A REGENERATIVE FUTURE!** Degrades DLNR's ability to protect our natural and cultural resources! Please kill this bill (sounds like a title for a movie!).

Mahalo for your consideration,

Tlaloc Tokuda

Kailua Kona, 96740

**SB-92**

Submitted on: 1/30/2023 10:16:30 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
janice palma-glennie	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

This bill will help damage rather than protect our marine resources. SB92 seeks to limit the terms of community—based subsistence fishing areas. Why would we do that when programs such as these have helped balance the ecosystem where they're used?

By degrading DLNR's ability to protect our natural and cultural resources, this bill degrades a part of what's helpful in protecting hawaii's environmental, cultural, recreational and economic future

Vote NO on BILL SB92.

mahalo and sincerely,

janice palma-glennie

kailua-kona

**SB-92**

Submitted on: 1/30/2023 11:53:57 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne ('Antu') Harvey	Individual	Oppose	Written Testimony Only

Comments:

Thank you for this opportunity,

**I OPPOSE [SB92](#)** (establish a time limitation upon community-based subsistence fishing area designations.)

We do NOT expect the threats and degradation to our marine environment and resources to end in the near term. In fact it is likely the assaults will increase. So, it is better to designate CBSFA without a sunset date and require re-processing an extension at the risk that could expire unintentionally. Hawai'i does not have a good track record at adequately funding the resources needed to manage such renewals. We need to err toward lasting protections.

No harm is done by saving these fragile cultural and environmental treasures. These laws are protections for our (all of us) future.

I am asking you to **OPPOSE SB92** today.

Mahalo.

Anne ('Antu') Harvey  
96725

**SB-92**

Submitted on: 1/30/2023 12:32:09 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Laa Poepoe	Individual	Oppose	Written Testimony Only

Comments:

Periodic updates are normally utilized to track progress, and are the preferred method for metering performance. Placing an expiration on any of the state's community fisheries co-management programs would essentially undermine and contradict the purpose for which these initiatives were created, which was primarily to assist DLNR's ability to monitor coastlines, and help to intelligently preserve the fisheries that we are currently borrowing from future generations. The chapter 91 process to establish a designated area is already a burden of time and effort on applicant communities. This bill seeks to terminate Hawai'i state CBSFA's through an act of legislation. Thank you.

**SB-92**

Submitted on: 1/30/2023 12:54:51 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Hannah Hartmann	Individual	Oppose	Written Testimony Only

Comments:

**Aloha Kākou,**

**I STRONGLY OPPOSE SB92 for several reasons. The language used throughout this bill is vague, leaving room for interpretations that further put our marine resources at serious risk. Limiting the terms of CBSFAs also does not accurately reflect the realities of co-management approaches between the DLNR and native Hawaiian cultural practitioners. As a restoration ecologist, I know firsthand the extensive processes that go into remediating and the subsequent monitoring and recovery of a site. The timeline spans from years to decades, and term limits with surely impair these processes.**

**I strongly urge you to OPPOSE SB92, and by doing so you will show your commitment to the regenerative future Hawai'i deserves.**

**Mahalo,**

**Hannah Hartmann**

**96721**

**SB-92**

Submitted on: 1/30/2023 1:40:11 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cynthia Punihaole Kennedy	Individual	Oppose	Written Testimony Only

Comments:

Wednesday, February 1, 2023

Time: 1:00PM; Conference Room 229 & Videoconference; State Capitol

RE: Strong Opposition to SB 92 Relating to Community-Based Subsistence Fishing Areas.

Aloha Chair Senator Inouye, Vice Chair Senator Elefante, and members of the Water and Land Committee:

I am writing to oppose SB 92 Relating to Community-Based Subsistence Fishing Areas.

Community-Based Subsistence Fishing Areas (CBSFA) are critical to the decline in fishery health and ensure long-term stewardship of designated areas. This bill is of concern because it places a time limit on CBSFA designations where efforts to establish a designation may be jeopardized as the process may take longer than anticipated and may be out of the control of the community.

I respectfully ask that you abstain from moving this measure forward.

Mahalo

Cynthia Punihaole Kennedy



**SB-92**

Submitted on: 1/30/2023 2:04:09 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cheyenne Pico	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

My name is Kamalei Pico, and I am a lineal descendant of the Kīpahulu moku. As a descendant and resident of Kīpahulu, I have seen the Kīpahulu ‘Ohana’s extensive process in the creation and implementation of a Community Based Subsistence Fishing Area. You may recall one of the reasons why CBSFA’s were introduced; to address the state’s shortcomings or failures to adequately manage our marine resources in a way that addresses the unique needs of each of our coastal communities. Who better than each community’s CBSFA is it to effectively monitor and manage marine resources in a way that keeps up with changing times? Its clearly the CBSFA’s themselves. The state does not have the capacity or resources available to prove its validity.

By putting a time limit on CBSFA’s, the state would 1. reverse and undermine the long, extensive research/data collection and outreach done by stakeholders in each CBSFA, 2. invalidating kupuna & kanaka ‘oiwi knoweldge 3. insinuating that traditional customary Hawaiian subsistence, culture, and values have an expiration date. ‘A‘ole pono! **I strongly oppose SB92.**

**SB-92**

Submitted on: 1/30/2023 2:08:54 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Hauʻoli Kahaleuahi	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB 92 and the creation of an expiration date for Community-Based Subsistence Fishing Areas.

CBSFAs are, as stated in the title, community-based and led efforts, and the power should remain within each unique community to determine any sort of evaluation of their effort. If a community decides to go through an evaluation of how their CBSFA is working after an agreed upon set of years, that's up to the community to establish. Evaluation is great, but there should not be an expiration date determined by the State.

CBSFAs are meant to be tailored to each coastal community. These communities are the experts and leaders when it comes to any sort of natural or environmental resource management. I want the power to remain within each community.

Mahalo.

**SB-92**

Submitted on: 1/30/2023 3:55:50 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Shannon Rudolph	Individual	Oppose	Written Testimony Only

Comments:

Oppose

**SB-92**

Submitted on: 1/30/2023 5:57:05 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Shauna Springer	Individual	Oppose	Written Testimony Only

Comments:

As a kanaka maoli and hoa'āina, I strongly oppose this Bill 92 which proposes to establish an arbitrary time limitation upon CBSFA designations. This bill is unnecessary because CBSFAs were created to support the perpetuation of Native Hawaiian culture and allow communities to incorporate their place-based traditional knowledge along with contemporary science into the creation of the rules. During this process, the community should have the ability to determine the time frame/limit of their own rules, and NOT have an arbitrary time frame that blankets all CBSFAs. Each place is different and will require different needs. Please do not pass this bill, as it doesn't support the ability and rights for Native Hawaiians to perpetuate their traditional and customary rights.

**SB-92**

Submitted on: 1/30/2023 8:15:15 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cory Harden	Individual	Oppose	Written Testimony Only

Comments:

Aloha legislators,  
Please do not axe protection for our ocean resources!  
mahalo, Cory Harden

**SB-92**

Submitted on: 1/30/2023 9:01:56 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lisen Twigg-Smith	Individual	Oppose	Written Testimony Only

Comments:

I am strongly opposed to Senate Bill #92. Now more than ever our marine resources need our protection and the DLNR's 30x30 needs to be kept in place. Please recognize the value in this-- future generations depend on the decisions we are making today.

**SB-92**

Submitted on: 1/30/2023 10:39:31 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Elizabeth Laliberte	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill because it undermines marine conservation efforts. This bill also undermines access to and ability of community members to collect their own food from the ocean. This is wrong. Hawaii needs to uphold it's laws that protect access to the shoreline and access to fishing rights for Hawaiians. Senator Inouye should be ashamed to introduce this terrible bill.

**SB-92**

Submitted on: 1/31/2023 5:45:00 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Carrie Ostroski	Individual	Oppose	Written Testimony Only

Comments:

I am writing against Senate Bill 92.

Term limits send a message that the state is not committed to the critical CBSFA process, outcomes, and management. Marine and community ecosystems need time to recover and regenerate. Term limits put a time stamp on what is an ongoing effort.

Term limits threaten the intent and impact of CBSFAs, which have taken years to establish. The commitment of the communities would be diluted by threats of term limits which could undo these years of hard work, and create confusion and inconsistency in the critical marine stewardship in the managed areas.

This is a ridiculous and disturbing suggestion and a bill that unravels decades of hard work by DLNR, DAR, and the communities who have dedicated their lives and efforts toward sustainable management of our marine habitat. Please say no to SB92!



**SB-92**

Submitted on: 1/31/2023 6:44:16 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Robin Martin	Testifying for Hawaii Marine Education and Research Center	Oppose	Written Testimony Only

Comments:

31 January 2023

I am scientist and kama‘aina community member who has worked in Hawai‘i forests and oceans and with its people for the last 20 years. I work closely with County, State, and federal agencies, the University of Hawai‘i and several other universities, as well as numerous non-profit (including native Hawaiian) organizations across the State to support natural resource management and community involvement. Today, I submit this testimony as a private citizen, but also as the president of the Hawaii Marine Education and Research Center, which was created to support communities and their natural resources.

I submit this testimony in strong opposition to SB92. Specifically, I oppose term limits on Community-based Subsistence Fishing Area (CBSFA) designations for the following reasons:

1. CBSFA designations are carefully crafted as a co-management approach between native Hawaiian cultural practitioners and DLNR with the goal of restoring and sustaining fisheries for communities into the future. The establishment of the current CBSFAs was in response to declines in the health of reef ecosystems due to past over-fishing and habitat degradation from illegal and/or improper use and they are in their recovery phase. CBSFA term limits make no sense in the context of restoring and sustaining ecological resources and cultural practices over the long run because the ecosystems need to recover fully to ensure they do not degrade again with use.
2. The recovery phase of marine resources within CBSFAs will be vary depending upon many factors, location, use intensity, and others. Setting term limits on CBSFAs may impair the restoration process, never letting the resources return to original conditions and slowly degrading the system beyond repair.
3. From a governance perspective, term limits will make it even more difficult for DLNR to work with communities to invest in their cultural and ecological futures if the long-term outlook is likely to change and remain uncertain.
4. Term limits on CBSFAs could lead to changing rules over time. The education process that is undertaken by CBSFA managers and support groups takes years to deliver to and instill in resident and visitor users of the resource. Term limits will cause confusion and reduction in the long-term efficacy of the marine stewardship effort.

Respectfully,

Robin Martin PhD

President

Hawaii Marine Education and Research Center

To the Committee on Water and Land

Re: Testimony opposing SB 92

Feb. 1, 2023

Aloha Chair Inouye and member of the Committee on Water and Land:

My name is Charles Young. I reside in Kealia South Kona. I am writing in opposition to SB 92 which proposes to put time limits on Community Based Subsistence Area designations (CBSFA).

By creating CBSFA designations the Legislature affirmed Native Hawaiian Traditional and Customary subsistence gathering rights as protected by the Hawaii State Constitution. By creating, vetting and approving a resource management plan for the designated areas the DLNR again affirms that communities who engage in subsistence fishing do so in perpetuity as intended and protected under the Hawaii State Constitution. SB 92 would place a time limit on a constitutionally protected right.

The Legislature cites that the needs of community's change over time and that they must adapt. Indeed, Native Hawaiians have been subject to the most radical changes and proven to be the most adaptive given Hawaii's history. By design CBSFA management rules are already adaptive and resilient. They take into consideration both Traditional and Customary best practices and modern science-based practices. Progress is measured regularly with the goal of achieving abundance. The Legislature has always encouraged communities to participate in restoring abundance. By imposing time limits, CBSFA applicants may feel pressured to meet artificial deadlines and/or achieve arbitrary results. This measure does not serve to encourage community engagement in environmental restoration and management and would not serve to further the State's goals and responsibilities for better resource management.

CBSFA's are resource management plans and should not be seen as a permit or a license. They are adaptive and not extractive. While the needs of communities will change, those that chose to incorporate CBSFA designations and rule making are specifically hoping for a constancy in their resources. When approving the very first CBSFA designation for Haena, one BLNR member noted that the 60 years old "experiment" under State resource management has not born fruit and that the State should give way to more community driven resource management alternatives. SB 92 is not the way forward.

I appreciate this opportunity to provide testimony in opposition to SB 92

Charles KH Young

PO Box 505

Honaunau, Hi 96726

**SB-92**

Submitted on: 1/31/2023 10:21:46 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
David Shizuma	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I am writing to oppose SB92.

While the point made in section 1 of the bill that states that "community's needs and practices change over time" is correct and I agree whole heartedly with that, I do not feel that the decision to continue or end a community-based subsistence fishing area designation should be made by the Department of Land and Natural Resources.

The whole point of a community-based subsistence fishing area is that it is community based. The community that is caring for the area and monitoring its resources should be the one to decide if the community-based subsistence fishing area designation should continue or not, not the Department of Land and Natural Resources or any other governmental entity.

Thank you for your time and consideration.

**SB-92**

Submitted on: 1/31/2023 10:32:43 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Vern Yamanaka	Individual	Oppose	Written Testimony Only

Comments:

I am Vern Yamanaka a kama‘āina of the Island of Hawaii. I am writing **in opposition to SB 92** Relating to Community-Based Subsistence Fishing Areas.

My family and I have been involved in managing land holdings in Ka‘ūpūlehu, North Kona for 3 generations. I have been involved with the Ka‘ūpūlehu Marine Life Advisory Committee (KMLAC) since its inception which established the Try Wait program to bring back the marine resources that were drastically impacted by public access mandated by the State and County.

While the Try Wait program has shown that we are able to bring life back to the shoreline, we realize that ten years of closure cannot bring you back to where it was prior to public access. The marine community includes more than fish. We have found that coral die off due to global warming is just one aspect of the stress on the marine ecosystem. It had always been the goal of the closure to bring back the resources to a point that sustainable management could be instituted. This process takes time.

Kupuna Hannah Springer is quoted in testimony “That said, the KMLAC has worked with the State of Hawai‘i and other like-minded communities across the pae ‘āina Hawai‘i to foster the civic engagement necessary to accomplish the place and community-based fisheries management that has been proven across the pae ‘āina, to improve the health of many places and the people who call them home. ....

The changes suggested to the Community Based Subsistence Fishing Area designations would undermine the trust and respect noted above, as well as discourage on-going community efforts and stifle future aspirations to Community Based Subsistence Fisheries Management.”

Mahalo

Vern Yamanaka

**SB-92**

Submitted on: 1/31/2023 10:44:38 AM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cynthia Sweeney	Individual	Oppose	Written Testimony Only

Comments:

Term limits would be detrimental to the efficacy of CBSFAs. The recovery phase of marine resources varies depending on the condition and location, and setting term limits would hinder the restoration process, and make it even more difficult for DLNR to work with communities to invest in their cultural and ecological futures. Please reconsider this perhaps well-meaning but misguided legislation.

JAN 18 2023

S.B. NO. 92

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# A BILL FOR AN ACT

RELATING TO COMMUNITY-BASED SUBSISTENCE FISHING AREAS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that a community's needs  
2 and practices change over time. To remain relevant and  
3 beneficial to a community, community-based supports, such as  
4 community-based subsistence fishing areas, must adapt  
5 accordingly. Rather than change in response to a community's  
6 needs, however, community-based subsistence fishing area  
7 designations are permanent. Therefore, the purpose of this Act  
8 is to establish a time limitation upon community-based  
9 subsistence fishing area designations to ensure community-based  
10 subsistence fishing areas reflect the needs of Hawaii's  
11 communities.

12           SECTION 2. Section 188-22.6, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) The department of land and natural resources may  
15 designate community-based subsistence fishing areas and carry  
16 out fishery management strategies, pursuant to administrative  
17 rules adopted under chapter 91, for [such] the areas[,—through





1 ~~administrative rules adopted pursuant to chapter 91,~~] for the  
2 purpose of reaffirming and protecting fishing practices  
3 customarily and traditionally exercised for purposes of native  
4 Hawaiian subsistence, culture, and religion[-]; provided that  
5 each designation shall remain valid for not more  
6 than \_\_\_\_\_ years; provided further that each designation in the  
7 year prior to its expiration may be considered for an extension  
8 of \_\_\_\_\_ years, unless the designation has been established by  
9 statute prior to its expiration."

10 SECTION 3. Section 188-22.9, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) There is designated the Ha'ena community-based  
13 subsistence fishing area, as provided in section 188-22.6, on  
14 the northwestern coast of Kauai, which shall consist of all  
15 state waters and submerged lands bounded by:

- 16 (1) The shoreline of the Ha'ena district;
- 17 (2) A line that follows an imaginary extension of the  
18 boundary between Ha'ena state park and Na Pali state  
19 park that extends seaward for one mile from the  
20 shoreline;



1 (3) An irregular line one mile offshore that is parallel  
2 to the contours of the shoreline; and

3 (4) A line that follows an imaginary extension of the  
4 boundary between Ha'ena and Wainiha, as specified in  
5 the tax map of the county of Kauai, that extends  
6 seaward for one mile from the shoreline."

7 SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

INTRODUCED BY: 



# S.B. NO. 92

**Report Title:**

Community-Based Subsistence Fishing Areas; Designations;  
Department of Land and Natural Resources

**Description:**

Establishes a time limitation for community-based subsistence fishing area designations; provided that the Department of Land and Natural Resources may consider extending a designation in the year prior to the designation's expiration unless the designation is made through statute before its expiration.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*





## Hawai'i Wildlife Fund

*Post Office Box 1801, Kealahou, Hawai'i, HI 96750 &  
Post Office Box 790637, Paia, Maui, HI 96779*

Celebrating 27 years of protecting  
Hawai'i's native wildlife through research,  
education and conservation.

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### Re: Relating to Community-Based Subsistence Fishing Areas

31 January 2023

Aloha Chair Inouye, Vice Chair Elefante, and Senators on the Water and Land Committee,

**Hawai'i Wildlife Fund (HWF) adamantly opposes the proposed Senate Bill 92** that “establishes a time limitation for community-based subsistence fishing area designations; provided that the Department of Land and Natural Resources may consider extending a designation in the year prior to the designation's expiration unless the designation is made through statute before its expiration.”

We feel strongly that the designation of specific marine and coastal areas as Community-Based Subsistence Fishing Areas (CBSFA) and the co-management of resources by community members and DLNR is one of the most effective ways to protect our resources into the future.

Hawai'i nei is home to thousands of native species living from the depths of the pelagic environment and coral reefs to the very peak of Mauna Kea. Like many island ecosystems, a large percentage of the native wildlife living in the Hawaiian archipelago are endemic to this region – or only found here. At the same time, island ecosystems are *much* more vulnerable to the threats of invasive species and natural disasters, and are consequently more at risk for extinction than their continental counterparts. In addition, the health and wellness of our island residents is intimately linked to the wellbeing of the surrounding environment. Traditional ecological knowledge and lessons should be learned from the local community members and fishermen to help support and sustain these same marine resources into the future<sup>1</sup>.

In this era of increasing anthropogenic threats to our coastal and marine ecosystems from climate change (sea-level rise, warming ocean temperatures, more frequent storm events, heightened drought / flooding patterns), coupled with excessive tourism, overdevelopment, and overfishing activities we need to take action immediately to both plan and to protect our natural resources and cultural practices (and think about

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<sup>1</sup>Johannes, R.E. “Words of the Lagoon: Fishing and Marine Lore in the Palau District of Micronesia”. University of California Press, Berkeley, USA. 1981.

generations to come). It is urgent that we act now to protect wahi pana across the state and nearshore resources for current and future generations.

Hawai'i Wildlife Fund (HWF) is a small nonprofit organization that has been working to conserve native species in Hawai'i since 1996. During that time, we have been actively involved in research, education, restoration and advocacy projects related to the protection of coastal and nearshore ecosystems around the pae 'āina. HWF was founded by two former National Marine Fisheries scientists, and we have been involved in community-based fisheries management efforts since 2003 at the invitation of the former Community Conservation Network (CCN), now Kua'āina Ulu Auamo (KUA) to join the E Alu Pū network. We are also co-founders of the original Makai Watch program (another community-based marine management program), together with CCN, The Nature Conservancy, DOCARE and the communities of Miloli'i, and 'Āhihi-Kīna'u Natural Area Reserve.

We support regulations that facilitate local communities, concerned fishermen, and the DLNR to improve current marine resource conditions on an 'Ahupua'a or moku scale. Since traditionally managed fishery zones where the community is dedicated and involved have standing stocks of reef fishes equal to that in fully protected marine reserves<sup>2</sup>, they should be fully supported for community co-management initiatives. We share the spirit embodied in the E Alu Pū Resolution No. 1-2013 regarding CBSFA designations, rules and the work of many communities seeking to mālama their place through co-management approaches.

We support communities that wish to continue to develop subsistence fishery management plans and zones, including Miloli'i and Ho'okena on the island of Hawai'i, Ha'ena on Kaua'i, Kīpahulu on Maui, Mo'omomi on Moloka'i, and will support other moku or 'Ahupua'a that wish to do the same.

**Please support the statewide and community-based subsistence fishing area initiative. We urge you to kill this bill (SB92) before it has the chance to be scheduled for any more hearings.** Mahalo for your time, consideration, and support of Hawaii's native wildlife / habitats, cultural landscape and community connectivity. Thank you for not supporting this bill.

*Me ke aloha pumehana,*



**Hannah J. Bernard**  
*Co-founder & Executive Director*  
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**Megan R. Lamson, M.S.**  
*President & Hawai'i Program Director*  
megan@wildhawaii.org  
(808) 217-5777

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<sup>2</sup> Poepoe, K. K., P. K. Bartram, and A.M. Friedlander. "The use of traditional knowledge in the contemporary management of a Hawaiian community's marine resources." *Fishers' knowledge in fisheries science and management* (2007): 119-143. (Avail for download here: [LINK](#))

**LATE**

**SB-92**

Submitted on: 1/31/2023 3:33:24 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dawn Morais Webster Ph.D.	Individual	Oppose	Written Testimony Only

Comments:

Please do not move this bill forward. This is exactly the wrong time to try to put an expiry date on traditional fishing practices that have allowed native Hawaiians to feed their families for generations. It took years for these communities to put together their CBSFAs. It is all about fishing responsibly, not taking too much, so that fish have a chance to reproduce and ensure abundance for years to come. The Federal government (DOI) has committed to ensuring indigenous voices in the management of lands and waters. Hawaii should be leading the way. Not running counter to this overdue commitment to ensuring the preservation of traditional practices that have served the community well and ensured their survival. Put an expiry date on this bill, not on CBSFAs. Mahalo.

**SB-92**

Submitted on: 1/31/2023 11:12:23 PM

Testimony for WTL on 2/1/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Crystal Kia Paul	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Inouye and Vice Chair Elefante,

E kala mai this testimony is arriving late.

My Aunt Valarie Kia shared this story with me. My great grandfather Deputy Sheriff William Werner of Hanalei until his death in 1922, lived in Wainiha and passionate about supporting his community. When the big rains would come, so did fishermen from other communities to come fish. He would post a guard at a make shift gate into Hanalei and not allow them to fish. He wanted to ensure those that lived in Hanalei were able to feed their families first.

Overall this bill appears to be in support of the sustenance fisher person, however, DLNR has a history of not re-opening fisheries once they close them. There are several sections on Hawai'i island that have been closed since 1993. Each time they were suppose to re-open these areas they would have an issue from funding to enforcement.

I strongly oppose this bill. Given DLNR's history I believe it would be in the best interest for all involved to defer this bill at this time.

Sincerely,

Crystal Kia Paul

1332 Teasley Lane Ste 289 Denton Tx 76205