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DEPARTMENT OF LAND AND NATURAL RESOURCES
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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 5, 2025
1:00 PM

State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE BILL 839
RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES

Senate Bill 839 proposes to amend conservation and resources law to: (1) Increase the criminal penalty for violations of section 188-31, Hawaii Revised Statutes (HRS), from a petty misdemeanor to a misdemeanor; (2) Double the current monetary fine schedule for violations of section 188-31, HRS, to \$200.00 for a first offense, \$400.00 for a second offense, and \$1,000.00 for a third or subsequent offense; and (3) Clarify that each fish or aquatic life specimen taken in violation of section 188-31, HRS, and section 188-23, HRS, constitutes a separate offense. **The Department of Land and Natural Resources (Department) appreciates the intent of this bill and offers the following comments.**

The Department notes that [section 188-31, HRS](#), is primarily an authorizing statute that authorizes the Department to issue permits for using fine mesh nets to take aquatic life for aquarium purposes. It does not establish any specific prohibitions related to aquarium fishing, except as described in subsection (c), which states: “It shall be illegal to sell or offer for sale any fish or other aquatic life taken under an aquarium fish permit unless those fish and other aquatic life are sold alive for aquarium purposes.” Therefore, as written, this bill would not accomplish its stated purpose to “increase fines for violations relating to aquarium fishing.”

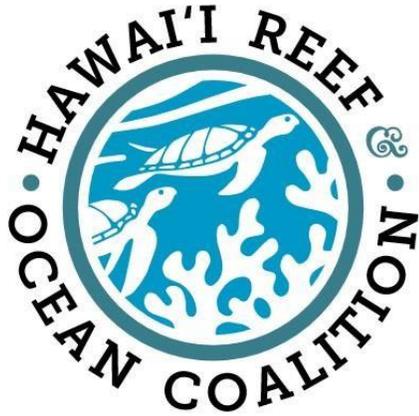
The Department notes that in 2022 the Legislature passed [Act 35](#), which established “a tiered administrative fine system for each specimen of aquatic life taken, killed, or injured” and “a criminal fine structure on a per-specimen basis for violations involving aquatic life.” The Department currently has authority to levy fines on a per-specimen basis for aquarium fishing

violations. Therefore, the Department believes that the proposed addition of subsection (g) of section 188-70, HRS, is unnecessary.

The Department also notes that increasing the criminal penalty for violations where aquatic life is taken for aquarium purposes from a petty misdemeanor to a misdemeanor may have far reaching consequences on judicial efficiency. Because misdemeanor crimes can carry a sentence of up to a year in jail, these cases would be eligible for a jury trial, which can take significantly more resources to prosecute compared to bench trials. The Department's Division of Conservation and Resources Enforcement (DOCARE) and Division of Aquatic Resources (DAR) are already stretched thin when it comes to personnel and resources.

Finally, the Department notes that, in addition to the statutory criminal penalties and monetary fines that the Court can impose at sentencing upon conviction, the Department is authorized to impose administrative penalties pursuant to section 187A-12.5, HRS, through administrative enforcement actions before the Board of Land and Natural Resources (Board) and through the Civil Natural Resources Violation System (CRVS) established by chapter 199D, HRS, and implemented under [sections 13-1-51 to -72, Hawaii Administrative Rules \(HAR\)](#) and the associated [administrative penalty schedule](#) adopted by the Board on December 12, 2014. This suite of penalties and enforcement options gives the Department wide latitude to pursue penalties appropriately tailored to address the severity of each offense and to deter future violations. Also, the Department notes the value in allowing the courts to balance the factors of each individual circumstance to craft fair criminal sentences. High minimum monetary fines take discretion away from the courts at sentencing, forcing them to apply an increased minimum monetary fine across the board without being able to exercise discretion for each individual case.

Mahalo for the opportunity to comment on this measure.



To: The Honorable Chair Lorraine Inouye, Vice-chair Brandon Elefante, and members of the Committee on Water and Land

From: Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

Re: **Hearing SB839 RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES**

Hearing: Wednesday, February 5, 2025, 1:00 p.m. CR229

Aloha Chair Inouye, Vice-chair Elefante, and members of the Committee on Water and Land:

The Hawai'i Reef and Ocean Coalition (HIROC) is a group of scientists, educators, filmmakers and environmental advocates who have been working since 2017 to protect Hawaii's coral reefs and ocean.

The Hawai'i Reef and Ocean Coalition submits a COMMENT on SB839.

This bill appears to increase the penalty for taking fish for commercial aquariums from a petty misdemeanor to a misdemeanor. Hawai'i Reef and Ocean Coalition **supports the intent** of helping enforcement against poaching violations.

Hawai'i Reef and Ocean Coalition (by Ted Bohlen)



February 5, 2025

Senate Committee on Water & Land

RE: COMMENTS ON SB 839 Aquarium Fishing; Fine Increase

Dear Chair Inouye and Committee Members,

For the Fishes, a Maui-based not for profit organization dedicated to the protection of coral reef wildlife supports SB 839 and provides the following important comments and context as to the challenges with enforcing the yearslong poaching inherent in the commercial aquarium trade.

Commercial aquarium collecting has been illegal under a Hawaii supreme court decision issued in October of 2017. However, DLNR-DAR did not begin enforcing this court decision in West Hawaii until January 2018, and the rest of the state, not until February 2021.

In less than 5 years, there have been 4 large scale aquarium poaching and wildlife trafficking investigations involving the illegal collection of thousands of reef animals (see below news articles). In each of these cases, **enforcement action was only taken when federal agencies, including NOAA and USFWS, led the investigation**, despite both DAR and DOCARE being provided with the same evidence of illegal activities. In one case, the Board of Land and Natural Resources issued fines in excess of \$200,000, however, the defendants fled the country and have not to date paid a single cent in fines. In another case, a defendant was charged with more than 300 separate violations, for each fish illegally captured. He was convicted on just 4 counts and fined only \$4,000 in a plea deal (after telling the judge he was collecting for UH Hilo, which was false). Additionally, DAR sought a \$69,800 administrative fine, however, the defendant was granted a contested case hearing. Now, 3 years to date from his conviction, DAR has yet to bring the case to the BLNR for disposition.

Therefore, while we appreciate the intent of the bill to increase penalties, and to clarify that that a prosecutor may charge each violation as a separate offense, the issue remains that where the commercial aquarium pet trade is concerned, enforcing even a simple ban is

nearly impossible and, going forward, any legal collection would only serve to provide cover for even more illegal activities.

Further, by DAR's own admission, when the trade was legal, it cost the division upwards of \$500,000 annually to attempt to manage the commercial aquarium pet trade, not including enforcement costs. Because the aquarium trade generated less than \$5,000 in state revenues (license fees and excise tax, combined), the public's share amounted to hundreds of thousands of dollars for futile attempts to manage this extractive industry.

Unfortunately, aquarium collectors have demonstrated that the threat of fines is simply the cost of doing business, especially when just one of our rare endemic fishes can fetch thousands of dollars from a wealthy mainland hobbyist or pet dealer.

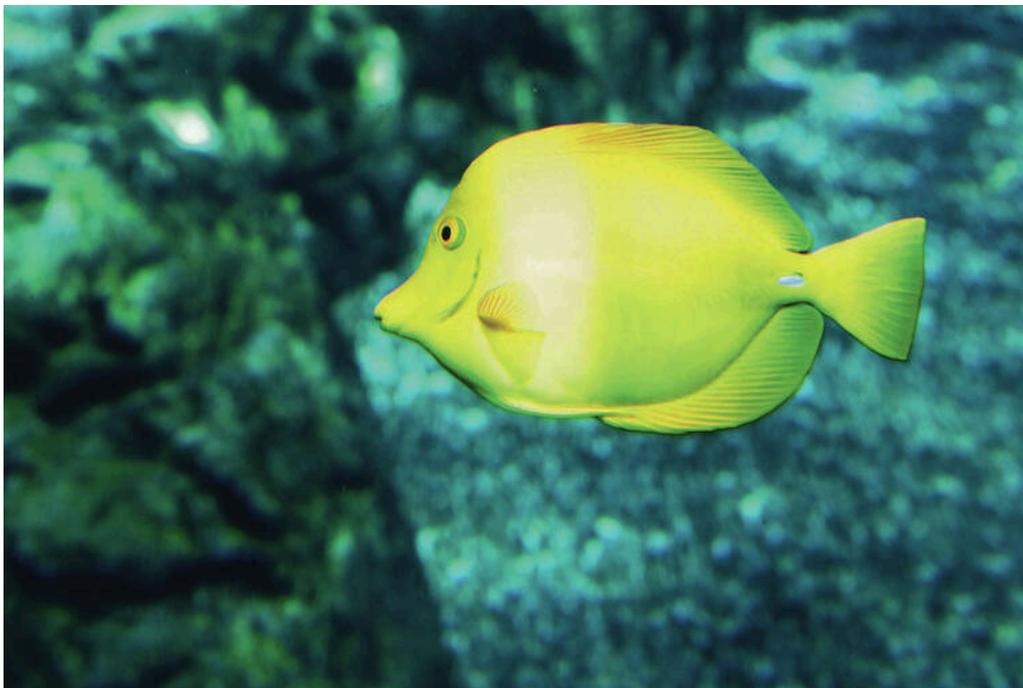
If the Committee wishes to best protect our important reef wildlife for future generations the **best course of action would be to statutorily close the commercial aquarium pet trade in perpetuity, with exemptions for bona fide research, education, public display, and aquaculture** (captive-breeding) of ornamental species, to relieve pressure on our critically important reef wildlife.

Thank you for your consideration of our testimony.

Oahu man faces federal charges for allegedly smuggling fish

By [Peter Boylan](#)

Today



STAR-ADVERTISER / 2023

Shane Takasane faces federal charges for allegedly smuggling aquarium fish such as the Hawaii yellow tang, seen above in a snorkeling lagoon at Aulani Resort's Rainbow Reef.

An Oahu man faces federal charges after he allegedly ran an illegal aquarium fish smuggling operation with non-native, endangered species and protected Hawaii reef fish for sale starting at \$300 each.

Shane Takasane “engaged in the illicit trade of marine fishes of Hawaii that are sold illegally in other states,” according to an affidavit authored by a special agent with the U.S. Fish and Wildlife Service’s Office of Law Enforcement.

Takasane also allegedly smuggled a non-native fish, “called Snakehead fish,” into the United States, in violation of federal law, for illegal resale in Hawaii.

“It is unlawful for any person to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or foreign law,” according to the federal statute cited in the criminal complaint.

Takasane made his initial appearance in U.S. District Court on Thursday. He is free on an unsecured \$25,000 bond ahead of a preliminary hearing Feb. 6 before U.S. Magistrate Judge Wes Reber Porter.

Assistant U.S. Attorney Michael F. Albanese is prosecuting the case. Takasane is represented by Assistant Federal Public Defender Jacquelyn T. Esser.

“The illegal trade of Hawaii marine fish species is a significant factor in the decline in the number of individual fish that reside in Hawaii’s reefs” wrote the federal agent

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Department of Land and Natural Resources

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[Home](#) » [Aquatic Resources](#), [DOCARE](#), [Main](#), [Media](#), [News Releases](#), [slider](#) » 08/28/20-NĀ'ĀLEHU MAN ARRESTED FOR ILLEGAL TAKES OF HUNDREDS OF FISH

08/28/20-NĀ'ĀLEHU MAN ARRESTED FOR ILLEGAL TAKES OF HUNDREDS OF FISH

Posted on Aug 28, 2020 in [Aquatic Resources](#), [DOCARE](#), [Main](#), [Media](#), [News Releases](#), [slider](#)

DEPARTMENT OF LAND AND NATURAL RESOURCES News Release

DAVID Y. IGE GOVERNOR	SUZANNE D. CASE CHAIRPERSON
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For Immediate News Release: August 28, 2020

NĀ'ĀLEHU MAN ARRESTED FOR ILLEGAL TAKES OF HUNDREDS OF FISH

333 Yellow Tang, Suspect Faces 16 Charges



(Hilo) – Thursday morning a DLNR Division of Conservation and Resources Enforcement (DOCARE) officer, on patrol, spotted a vessel in the West Hawai'i Regional Fisheries Management Area (FMA), off South Point. The DOCARE officer maintained surveillance on the boat during the day and then a team of officers boarded it, as they suspected aquatic resources violations.

Officers inspected the boat and the fishers catch at the South Point Boat Ramp. They found 333 Yellow Tang and three (3) Paku'iku'i (Achilles tang); common species of aquarium fish. The DOCARE inspection also revealed numerous violations of Hawai'i Administrative Rules relating to fishing gear and permit requirements relating to the FMA.

The vessel's operator, 47-year-old Jason Beevers, of Nā'ālehu was arrested for the following violations:

1. Activities Prohibited within selected areas (collecting aquatic life), 13-60.4-5(B)(1)
2. Activities Prohibited within the WHRFMA, 13-60.4-4(3)(B)
3. Aquarium collecting permit and vessel registration required, 13-60.4-7(C)(1)
4. Aquarium collecting permit and vessel registration required (failure to display "AQ"), 13-60.4-7(C)(2)
5. Aquarium collecting permit and vessel registration required (failure to fly stiffened "A" flag), 13-60.4-7(C)(3)
6. Aquarium collecting permit and vessel registration required (failure to display a dive flag), 13-60.4-7(C)(4)
7. Activities Prohibited within the WHRFMA (possess AQ gear), 13-60.4-4(3)(A)
8. Activities Prohibited within the WHRFMA (possess unmarked AQ gear), 13-60.4-4(4)
9. Activities Prohibited within the WHRFMA (possess AQ gear), 13-60.4-5(B)(2)
10. Activities Prohibited within the WHRFMA (possess SCUBA gear), 13-60.4-4(6)
11. Lay Nets (less than 2 ¾ inches stretched mesh), 13-75-12.4(a)(2)(B) Note: White nylon (2")
12. Lay Nets (less than 2 ¾ inches stretched mesh), 13-75-12.4(a)(2)(B) Note: Maroon in color (1")
13. Lay Nets (Net not registered), 13-75-12.4(a)(1) Note: White nylon
14. Lay Nets (Net not registered), 13-75-12.4(a)(1) Note: Maroon in color
15. Aquarium Vessel Registration requirements, 13-60.4-7(C)(1)
16. Activities Prohibited within the WHRFMA (possess/engage lay net), 13-60.4-4(5)

Beevers was booked and released on his own recognizance. He will be required to appear on the charges, which are petty misdemeanors. He could face fines, imprisonment, and administrative penalties. All the fishing gear connected to the violations were seized as evidence.

"We appreciate the hard work of the team of officers who were involved in this case" said DOCARE Enforcement Chief Jason Redulla. "While our officers continue to provide for everyone's safety during the current COVID-19 crisis, we continue to be on the lookout for natural resource violations" Redulla added.

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[Home](#) » [Aquatic Resources](#), [DOCARE](#), [Fishing](#), [Main](#), [Media](#), [News Releases](#), [slider](#) » 09/16/20-WELL KNOWN HAWAI'I ISLAND AQUARIUM COLLECTOR ARRESTED ON MULTIPLE CHARGES

09/16/20-WELL KNOWN HAWAI'I ISLAND AQUARIUM COLLECTOR ARRESTED ON MULTIPLE CHARGES

Posted on Sep 16, 2020 in [Aquatic Resources](#), [DOCARE](#), [Fishing](#), [Main](#), [Media](#), [News Releases](#), [slider](#)

DEPARTMENT OF LAND AND NATURAL RESOURCES News Release

DAVID Y. IGE GOVERNOR	SUZANNE D. CASE CHAIRPERSON
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For Immediate News Release: September 16, 2020

WELL KNOWN HAWAI'I ISLAND AQUARIUM COLLECTOR ARRESTED ON MULTIPLE CHARGES





(HONOLULU) – Calling the illegal actions “outrageous,” DLNR Chair Suzanne Case praised the Division of Conservation and Resources Enforcement (DOCARE) arrest yesterday of a West Hawai'i aquarium fish collector. 57-year-old Steve Howard of Kailua-Kona, a well-known aquarium fisher, was arrested after a bizarre series of events that included a search and rescue operation. Howard was observed launching his boat at DLNR's Honokohau Small Boat Harbor. When DOCARE officers were alerted, they mobilized, and followed the boat to the Kailua-Kona pier, where Howard picked up two women.

DOCARE Chief Jason Redulla picks up the story. “Our officers observed Howard's vessel heading out to the ocean and by this time we were able to deploy our own boat. Officers intercepted Howard in South Kona off Pebble Beach near Ho'okena. He was questioned about the whereabouts of the women who were no longer on the boat. Officers report Howard was uncooperative as they tried to determine the location of the women. His voyage was terminated due to equipment violations, and he was escorted back to Honokohau.”

The missing women prompted a multi-agency, land, air and sea search & rescue mission involving DOCARE, the Hawai'i County Fire Dept., the Hawai'i County Police Dept., the U.S. Coast Guard and NOAA's Office of Law Enforcement. Eventually authorities received a call that two women, with full diving equipment, were spotted at a Kona gas station. They were picked up for interviews and admitted Howard had “dropped them off to go scuba diving. Ultimately the women told investigators that they'd left approximately 200 fish in a collection basket in the ocean.

A NOAA vessel located nets and other equipment used for aquarium collection on the shore and then found the ten different species of fish in the basket in the ocean. With the assistance of staff from the DLNR Division of Aquatic Resources (DAR), the underwater cage and the captured fish were recovered. After an accounting of the numbers of fish and species type for evidence, all of the fish were returned to the ocean. The fish had an estimated value of \$17,000.

Howard faces multiple charges for resisting arrest, aquatics and equipment violations and for reckless endangerment associated with his dropping the women in the ocean.

Chair Case explained, “Aquarium collection in West Hawaii is not permitted at this time. Everyone knows the rules and the industry is under a microscope legally, procedurally, and physically. Why would anyone blatantly flaunt the law to continue to fish illegally for aquarium fish in Kona is beyond me. It's absolutely wrong. Big kudos to our DOCARE and DAR teams, that nailed this one.”

DAR Administrator Brian Neilson commented, “These people collected 235 fish popular for the aquarium trade in a place that they all know is currently off-limits to any aquarium fish collecting. These are egregious violations and we take them very seriously.”

DOCARE Chief Jason Redulla concluded, “Beyond the impacts on our aquatic resources, the actions yesterday diverted limited law enforcement & emergency services resources into a potential

search and rescue. At one time we thought we might be looking for missing or deceased divers. Who drops divers off a boat into the open ocean and then leaves in order to avoid detection?” “I’m very proud of our DOCARE officers and all of the personnel from other agencies who assisted in the search and subsequent arrest yesterday. These actions potentially endangered the lives of two divers and are clearly detrimental to the aquatic resources in West Hawai’i. We hope the individual arrested will be prosecuted to the fullest extent of the law.”

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Department of Land and Natural Resources

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[Home](#) » [Aquatic Resources](#), [Fishing](#), [Main](#), [Media](#), [News Releases](#), [slider](#) » 01/14/21-WEST HAWAI'I AQUARIUM FISHERS TO PAY \$76,400 FINE FOR ILLEGAL HARVEST

01/14/21-WEST HAWAI'I AQUARIUM FISHERS TO PAY \$76,400 FINE FOR ILLEGAL HARVEST

Posted on Jan 14, 2021 in [Aquatic Resources](#), [Fishing](#), [Main](#), [Media](#), [News Releases](#), [slider](#)

DEPARTMENT OF LAND AND NATURAL RESOURCES News Release

DAVID Y. IGE GOVERNOR	SUZANNE D. CASE CHAIRPERSON
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For Immediate News Release: January 14, 2021

WEST HAWAI'I AQUARIUM FISHERS TO PAY \$76,400 FINE FOR ILLEGAL HARVEST

Settlement Negates Contested Case Hearing Request



(HONOLULU) – Tyron and Kacie Terazono of Kealahou have agreed to pay a large fine for the illegal harvest of aquarium fish, offshore of Kawaihae in Hawai'i County, in February 2020.

Acting on tips, officers from the DLNR Division of Conservation and Resources Enforcement (DOCARE) conducted a commercial fishing gear and catch inspection of the couple's boat, *Masako*, when it returned to the Kawaihae Small Boat Harbor on Feb. 20, 2020. The inspection found 550 live tropical fish, of ten species, in the vessel's hold, along with aquarium fishing gear, including a small mesh net.

The Terazonos were charged with violating the Hawai'i Administrative Rules which prohibit the possession of aquarium collecting gear or the possession of aquatic life for aquarium purposes in the West Hawai'i Regional Fisheries Management Area without a permit.

The Board of Land and Natural Resources heard the case against the Terazonos last May. The couple initially requested a Contested Case Hearing, after the DLNR Division of Aquatic Resources (DAR) had recommended the \$76,400 administrative fines. Ultimately the pair dropped their request for a hearing and agreed to the settlement.

Last September, a South Kohala District Court judge sentenced Tyron Terazono to pay \$5,500 in fines stemming from the illegal collection and serve 30 days in jail, but the term was suspended due to the pandemic. He had pleaded guilty to 11 criminal counts.

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SB-839

Submitted on: 2/4/2025 10:56:36 AM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kim	Individual	Oppose	Remotely Via Zoom

Comments:

I oppose increasing fines when they are not applied equally across the board.

LATE

SB-839

Submitted on: 2/4/2025 9:50:23 PM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Eric Koch	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha Water committee

I am writing to you today in opposition to this measure. I believe that fishing penalties should apply to all fishers equally and not one group should be subjected to punitive and prejudicial penalties. Equal application of the law. If one fisher takes a kole illegally or improper and gets a slap on the hand, and then another guy catches same exact fish but for aquarium...it's not right to let one guy slide and throw the book at the other guy. This seems unnecessary and cruel. I strongly support sound data driven management of our aquatic resources and I realize the challenges managers face and that enforcement plays a vital role in all this. But this thought process should be universal and not selective. A fish removed illegally is a fish removed. If these penalties are necessary which I don't agree it is, then it it should apply to ALL. I recommend our standard penalty systems and earmarking momey for additonal officers to enforce our existing rules.

Aloha

Eric Koch

Waiiahinu Hawaii

SB-839

Submitted on: 2/1/2025 10:25:41 AM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

Poaching of our ornamental reef fish continues. It is helpful for enforcement to clarify that each take in violation of the law is a separate offense.

SB-839

Submitted on: 2/2/2025 2:14:59 PM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Randy Fernley	Individual	Oppose	Written Testimony Only

Comments:

Aloha Committee Members,

I strongly **oppose this bill** as it is discriminatory towards the aquarium fishery and does not include other state fisheries.

If this bill passes out of committee, ammenments should state that all infractions of fishing done illegally within the State should be subject to the same penalties.

Mahalo

LATE

SB-839

Submitted on: 2/4/2025 9:23:51 PM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Klayton Kubo	Individual	Oppose	Written Testimony Only

Comments:

Oppose