

JOSH GREEN, M.D.  
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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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Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the Senate Committee on  
WATER AND LAND

Monday, February 3, 2025  
1:06 PM

State Capitol, Conference Room 229 & Videoconference

In consideration of  
SENATE BILL 831  
RELATING TO MARINE LIFE CONSERVATION DISTRICTS

Senate Bill 841 proposes to: 1) require the Department of Land and Natural Resources (Department) to establish and conduct the Marine Life Conservation District (MLCD) Carrying Capacity Program; 2) require the Department to submit a report to the Legislature and adopt administrative rules; and 3) appropriate funds. **The Department supports this bill, provided that its passage does not replace or adversely impact priorities indicated in the Executive Budget Request.**

The Department's Division of Aquatic Resources is leading the Holomua Marine Initiative to improve marine management practices across the state to ensure healthy ecosystems and abundant resources that allow the people of Hawai'i to enjoy coastal waters, support local livelihoods, and feed our families. One of the four pillars of Holomua is monitoring to measure current conditions and track progress following implementation of new management approaches and to use data to identify areas where management actions need to be further adapted.

Events such as the extreme flooding in Hā'ena, Kaua'i and the COVID-19 pandemic have provided unique glimpses into how nearshore marine resources respond to reduced human use. It is becoming increasingly evident that activities long considered "non-extractive" can have significant impacts on nearshore ecosystems. It is critical that we better understand these impacts and human-use thresholds so we can prevent precious and unique areas like the state's MLCDs from being "loved to death."

There are currently ten designated MLCDs statewide:

DAWN N.S. CHANG  
CHAIRPERSON  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**LATE**

- Hanauma Bay MLCD, O‘ahu
- Pūpūkea MLCD, O‘ahu
- Waikīkī MLCD, O‘ahu
- Kealakekua Bay MLCD, Hawai‘i
- Lapakahi MLCD, Hawai‘i
- Old Kona Airport MLCD, Hawai‘i
- Waialea Bay MLCD, Hawai‘i
- Honolua – Mokulē‘ia MCLD, Maui
- Molokini Shoal MLCD, Maui
- Mānele – Hulopo‘e MLCD, Lāna‘i

A carrying capacity study has recently been conducted for Hanauma Bay, and a study is currently being conducted for Pūpūkea. For the remaining eight MLCDs, the Department estimates that a well-designed carrying capacity study program would cost around \$300,000 per MLCD to conduct. The Department would not be able to effectively conduct carrying capacity studies at all eight MLCDs simultaneously due to limited staff and contractor capacity. Establishing such a program requires a long-term commitment of resources. The best course of action is to build a team, form a plan, set priorities, and conduct one carrying capacity study per year on a continuous cycle. These studies have a maximum shelf life of 10 years as conditions change, so updates need to be done regularly.

The Department agrees that carrying capacity studies should be conducted in consultation with affected stakeholders and subject matter experts, including the counties, University of Hawai‘i researchers, and community groups. The Department also intends to engage with commercial operators such as SCUBA and snorkel charters and surf schools to ensure that all affected stakeholders are included in the process.

Mahalo for the opportunity to provide testimony in support of this measure.



COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair  
Senator Brandon J.C. Elefante, Vice Chair

NOTICE OF HEARING

DATE: Monday, February 3, 2025  
TIME: 1:06 PM  
PLACE: Conference Room 229 & Videoconference  
State Capitol  
415 South Beretania Street

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**TESTIMONY OF THE OCEAN TOURISM COALITION ON SB841.**

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

My name is Denver Coon. I am the president of the Ocean Tourism Coalition (“OTC”). OTC represents hundreds of locally owned ocean tourism businesses statewide, many being family businesses. While we recognize the importance of protecting Marine Life Conservation Districts (MLCDs), we have concerns that this bill may introduce significant regulatory changes without meaningful consultation with affected stakeholders, including ocean tourism businesses.

SB841 proposes assessments, restrictions, and potential limits on commercial use within MLCDs without a clearly defined process for engaging stakeholders who depend on these areas for their livelihoods. The bill should explicitly require direct consultation with commercial operators before any new restrictions or regulations are enacted.

**Recommendations**

To ensure fairness and effectiveness, we respectfully ask the committee to require a formal stakeholder advisory group that includes commercial operators to guide MLCD management decisions.

**Conclusion**

Hawaii’s MLCDs are important ecological and cultural resources, and their management should reflect a balanced approach that safeguards marine life while allowing for responsible, regulated use. We urge the committee to amend SB841 to ensure that stakeholders are included in the study.

Sincerely,

Denver S. Coon  
President, Ocean Tourism Coalition

**LATE**

February 2, 2025

WTL HEARING: Monday February 3, 2025, 1:06 PM  
Conference Room 229

Re: **SB841 Support with Comments - Relating to MLCDs**

Aloha Chair Inouye, Vice Chair Elefante, and WTL Committee members,

Mālama Pūpūkea-Waimea (MPW) is a grassroots, community non-profit on the North Shore of O’ahu that actively works to care for, educate about, and protect our fragile, near-shore marine ecosystems. Our mission is “working to replenish and sustain the natural and cultural resources of the Pūpūkea and Waimea ahupua'a for present and future generations through active community stewardship, education, and partnerships.”

MWP is fortunate to have been selected through an open RFP process by DLNR’s Division of Aquatic Resources (DAR) to be the lead entity implementing the Act 31 (2002) Carrying Capacity Program that is mentioned in SB841 as a model. The focus of the Act 31 program, as directed by the legislative intent, is on the sensitive shallow water areas of the MLCd, which is the Kapo’o (Sharks Cove) tidepools and cove, about a 5-acre marine area, which is very heavily impacted by visitors.

The funding for this three-year project from the Legislature was \$300,000 (reduced after the governor’s 10% restriction to \$270,000) or \$90,000 per year. We are just starting Year 3 of the three-year program of in-water surveys and on-land projects that will end in November.

One highlight of what we have already found through our monitoring is that, just in one year, between 2022 and 2023, the number of human users (primarily non-resident tourists) of the Kapo’o tidepools **doubled**, primarily due to social media promotion, which threatens the marine biodiversity in this sensitive “nursery” area of the MLCd. We look forward to providing a full report with management recommendations to DAR and the Legislature in December 2025.

Given MPW’s experience for the past two years of working very hard on this program with a broad range of consultants and advisors, MPW agrees with the bill’s purpose clause that this “carrying capacity” approach, which focused on biological impacts (not the “visitor experience”) “is an excellent first step at addressing the capacity limits of the State’s most valuable marine resources and should serve as a



**Mālama Pūpūkea-Waimea**  
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Makai Watch Coordinator*

**Federal Nonprofit Organization**  
501(c)(3) FEIN 27-0855937  
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model for all MLCs in the State." We note that Act 31 and our program stands on the shoulders of the many years of robust carrying capacity studies done by HIMB and others at Hanauma Bay.

We do, however, have several **cautionary comments** to offer for a proposed statewide expansion of similar carrying capacity studies for all MLCs.

1. **Budget.** To cover all the state MLCs, in our view, the Legislature would have to allocate roughly \$10 million per year, on a sustainable basis, to ensure adequate scientific and management work that can lead to tangible findings. Even with the generous funding for Act 31, MPW is able only to focus its work on a small sensitive area, about 5% of the entire MLC. To cover all of the Pūpūkea MLC past 2025, which we would strongly recommend, would require about \$1 million per year. Scientific and human use monitoring, even with wonderful staff and contributing partners, is costly and time intensive. If a sustainable generous budget can be committed, then good research, and comparative work, can be done in and across all Hawai'i MLCs. This area and all MLCs deserve that support!
2. **DAR Capacity.** Adding this statewide carrying capacity program for MLCs to DAR would require additional staff and funding as well, just for bandwidth, oversight, and management within the agency. DAR does not currently have a program for dedicated staff to oversee the MLC program or on the ground at any of the MLCs, to our knowledge, and is doing great work in support of the MLCs but is stretched. The Legislature might consider investing in DAR staff to oversee the MLCs and dedicated staff at each specific MLC, like a park ranger/ambassador/researcher, to complement the carrying capacity approach. This physical presence of staff would be hugely beneficial, particularly given the large and increasing number of non-resident visitors to these spectacular areas.
3. **Precautionary Principle.** MPW supports the precautionary principle – we should avoid risking our precious natural resources with human uses that may affect them unless those human uses are proven to not have an impact. In other words, the benefit of the doubt should always be given to the MLC marine life, not to the human uses. This is not presently the case, with many human (and even extractive) uses allowed at Pūpūkea and in many MLCs, but it worth keeping in mind as this bill moves forward given the very purpose of MLCs is to allow Hawai'i's native marine life to thrive and spillover to nearby coastal areas where human uses are allowed. That goal cannot be accomplished without rigorous protection, sound management, and strong enforcement.

As an organization in the midst of this process now, we are happy to share our mana'o with anyone interested in the "in the water" and "on the ground" challenges and successes of a biological carrying capacity program. Mahalo for the opportunity to provide testimony,



Denise Antolini

President, MPW

**LATE**

**SB-841**

Submitted on: 2/2/2025 3:20:02 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ted Bohlen	Testifying for Hawai'i Reef and Ocean Coalition	Support	Written Testimony Only

Comments:

Hawai'i Reef and Ocean Coalition **STRONGLY SUPPORTS SB841!**

Marine Life Conservation Districts have protected special marine resource areas in Hawai'i since 1967, beginning with Hanauma Bay.

**Determining the carrying capacity of Marine Life Conservation Districts would greatly assist DLNR in protecting these special areas, which conserve and replenish marine resources.**

**Please pass this bill to enhance MLCD protections!**

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



Kealakekua Bay, South Kona, Hawai'i

TESTIMONY IN SUPPORT WITH COMMENTS  
TO SENATE BILL 841  
RELATING TO MARINE LIFE CONSERVATION DISTRICTS.

**LATE**

Senate Committee on Water and Land  
Hawai'i State Capitol

February 3, 2025

1:06 PM

Room 229

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

Ho'āla Kealakekua Nui (HKN) is a Native Hawaiian-driven 501(c) nonprofit committed to implementing traditional methods of environmental stewardship, education, and cultural preservation at the wahi pana of Kealakekua Bay for the benefit of all, including future generations. Our organization is updating our Adopt-a-Park agreement with the Division of State Parks (DSP). We actively engage with the Division of Aquatic Resources (DAR) – West Hawaii Region. Kealakekua Bay was designated a Marine Life Conservation District (MLCD) in 1967 and implemented in 1969; since then, the Kealakekua MLCD has only seen a massive decline in marine life for fifty-five years.

HKN recognizes the protections the MLCD provides and agrees with this bill's intent on a carrying capacity approach; focusing on the biological impacts is an ideal first step in addressing valuable marine resources and implementing climate adaptation measures.

A year ago, HKN partnered with DAR and The Nature Conservancy (TNC) and conducted a community-based coral restoration project in the Kealakekua Bay MLCD to address the coral bleaching that impacted over 53% of the coral population. Restoration is a struggle in a climate-changed environment with high human use capacity. Our other partners, Ala Kahakai National Historic Trails (NPS), had set up trail counters on the Ka'awaloa trail, one of four primary accesses to Kealakekua Bay. The counters reported a full-year count at the end of 2024; over 53,000 visitors were counted, and thousands of others via 48 permitted boat tours. In addition, permitted and unpermitted kayakers and swimmers add up to over 600,000 visitors annually to the 315-acre Kealakekua Bay MLCD, averaging about 5,500 to 6,000 monthly. Our small fishing village primarily welcomes visitors, and valuable food resources are struggling to survive. Carrying capacity is a primary action item in the Kealakekua Bay Community Action Plan (CAP). This community-based action plan is included in the Final Master Plan for

Kealakekua Bay State Historical Park, adopted by the Board of Land and Natural Resources in 2023.

HKN continues to support the initiatives laid in Act 31 for Pūpūkea MLCD; however, it would support expanding a similar place-based approach to cover MLCDs statewide. Ensuring the Supreme Court developed Ka Pa‘akai Analysis and Indigenous Traditional Ecological Knowledge is implemented early in the consultation process. Further, HKN recommends that the legislature support funding for community-based research workforce to be considered in human use monitoring. A daily presence and data collection are critical in assisting the DAR staff in overseeing the MLCDs. The Hoa‘āina (community research staff) is a way to complement a biodiversity approach model in Act 31. It is highly beneficial to support DAR’s lack of capacity to manage MLCDs statewide, with marine life as the focus and fewer human uses that have a negative and cumulative impact.

HKN is happy to engage and partner with this legislation and the agencies involved in discussing avenues for developing and implementing a place-based human use capacity for Kealakekua Bay and MLCDs statewide and supporting the funding to implement the programs. Mahalo nui for the opportunity to testify.

‘O wau ‘iho nō,



Shane Akoni Palacat-Nelsen  
President

**SB-841**

Submitted on: 1/31/2025 12:37:28 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Philip Fernandez	Individual	Support	Written Testimony Only

Comments:

I support SB841.

I am an ocean user and fisherman. MLCDS may be an appropriate management tool, however, some MLCDS were established many years ago and their effectiveness may be unknown. Effectiveness can only be measured when Goals and objectives of MLCDS are known - some MLCDS do not have a stated goal that is measureable.

The study should not only review human use of the MLCDS, but whether the ecology within the MLCDS is in balance with the needs and desires of the people of Hawaii. Part of any carrying capacity study should determine where fishing should be allowed - if the ecosystem is healthy and the fish population is strong, the study should determine if there is an amount of fish that can be caught for food that is sustainable. It is also possible that the ecology is out of balance and certain species have overtaken a MLCDS, if so, this fact should also be studied.

Please support this bill.

Phil Fernandez

## **Testimony in Support of Senate Bill 841**

Date: January 31, 2025

**Submitted to: Hawaii State Senate Committee on Water and Land**

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

My name is Chad Walton, and I am a private citizen. I am writing to express my **support for Hawaii Senate Bill 841**, which requires the Department of Land and Natural Resources (DLNR) to establish and conduct the Marine Life Conservation District Carrying Capacity Program.

Hawaii's marine ecosystems are essential to Hawaii's economy, supporting tourism, fisheries, and cultural practices. Increasing human activities and environmental changes have placed significant pressures on these environments. Implementing a carrying capacity program is a logical path towards responsible long-term stewardship.

By assessing and monitoring the carrying capacity of Marine Life Conservation Districts (MLCDs), the DLNR can make informed decisions regarding permissible activities and usage levels within these protected areas. This proactive approach will help prevent overuse, ensuring that our marine resources remain healthy and resilient.

SB 841's provision for the DLNR to adopt administrative rules and report on the program's progress will also promote transparency and accountability in the management of the proposed program.

In conclusion, I believe that SB 841 represents a critical step toward safeguarding Hawaii's marine ecosystems. I respectfully urge the committee to pass this bill to ensure the long-term sustainability of our precious marine resources.

Thank you for your time and consideration.

Sincerely,  
Chad Walton

**LATE**

I firmly **support SB841**, its intent, and provide the following comments.

The biological carrying capacity study at Pūpūkea indicates the expense (both in time and resources) it will take to assess all of the State's Marine Life Conservation Districts.

To responsibly effectuate the findings and recommendations of the MLCD carrying capacity program, the scope of work for the program must incorporate:

- Environmental Reviews (HEPA and NEPA) that will ready any understanding of potential environmental impacts (Ch 343) for decision making exercises.
- Ka Pa'akai Analysis and Indigenous Traditional and Ecological Knowledge – that will contribute towards understanding biocultural impacts, past and present.

Among ocean resources users of MLCDs or any other marine managed area, impact to marine ecosystems must be the highest priority, over fishers - commercial or subsistence, and recreational users. Environmental reviews are critical for understanding that potential impact. The health of our marine ecosystems shall be protected from activities that deplete our resources, and therefore deplete our constitutional traditional and customary rights to exercise subsistence, cultural and religious practices.

Please pass this measure.

Mahalo,  
na U'ilani Naipo