

## COMMENTS on West Hawai'i Rules and Amendments

Note: Three Email-Blasts were widely disseminated in response to the December 5, 2012 West Hawai'i public hearing. The one below was sent by the Center for Biological Diversity, a Tucson, AZ environmental NGO. Note that the Email-Blasts themselves were *not* submitted to DLNR as testimony.



CENTER for BIOLOGICAL DIVERSITY

*Because life is good.*

### **Tell the Hawaiian Government to Protect Fish in Coral Reefs on Dec. 5**

Dear William,

With no limits on reef fish collection for the aquarium trade in Hawaii, overharvesting of reef fish is stripping our reefs of their health and beauty.

**On Dec. 5, attend a public meeting and let Hawaii's government know that overharvesting of coral reef fish for export to aquariums must be halted.**

Each year hundreds of thousands of Hawaii's wild reef animals are collected for the aquarium trade. Many of those caught die in transit or after only a few short days or weeks in a fish tank. Millions of reef fish have been harvested and exported to fish tanks across the world; this plunder of Hawaiian reefs is devastating the state's coral reef biodiversity.

Right now Hawaii is considering new rules to place limits on aquarium collection, but they are far too lax to protect our coral reefs.

Your voice is needed to urge the Hawaiian government to adopt meaningful limits on reef fish collection so that our beautiful coral reefs -- already under tremendous stress from global warming and ocean acidification -- will not be stripped bare.

**Please attend a public meeting near you to urge Hawaii to adopt strict rules to protect our reefs and their diversity.**

Event details below.

**What:** public meeting on coral reef fish harvesting

**When:** Wednesday, Dec. 5 at 6 p.m.



**Where:** Oahu --Waimalu Elementary School cafeteria, [98-825 Moanalua Road, Pearl City](#)  
Big Island -- Kealakehe High School cafeteria, [74-5000 Puohuluhuli St., Kailua-Kona](#)

For more information, including talking points for the meeting, contact [Miyoko Sakashita](#). If you cannot attend either meeting, please [click here](#) to send a message to the Department of Land and Natural Resources.

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[Donate now to support the Center's work.](#)

Photo of Hawaiian coral reef fish courtesy Flickr/NOAA.

This message was sent to [darkona@hawaiiantel.net](mailto:darkona@hawaiiantel.net).

The Center for Biological Diversity sends out newsletters and action alerts through DemocracyinAction.org. [Click here](#) if you'd like to check your profile and preferences. [Let us know](#) if you'd like to stop receiving action alerts and newsletters from us.

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Center for Biological Diversity

P.O. Box 710

Tucson, AZ 85702

1-866-357-3349

A total of 1923 email comments were received. All were essentially identical to the following:

From: Wolfpaw Hasenfuls  
Sent: Thursday, December 13, 2012 1:36 PM  
To: [darkona@hawaiiantel.net](mailto:darkona@hawaiiantel.net)  
Subject: Comment on Proposed Rules for Aquarium Collection

I'm writing to urge the Department of Land and Natural Resources to strengthen the proposed rules for aquarium collection of Hawaii's reef fish. Coral reef fish are an essential part of Hawaii's natural heritage; overharvesting these fish and invertebrates reduces coral reef diversity and health. I urge you to adopt much stronger protections for our coral reef ecosystems.

First, Hawaii should reduce the bag limits for reef fish, which would continue to allow overharvesting of popular fish. The rule should also be amended to include limits on collection of many other reef fish and animals that have currently been omitted.  
Second, aquarium collection permits should be limited, because with an unlimited number of potential collectors harvest limits are meaningless.

Finally, Hawaii should conduct a review of the environmental impacts of the aquarium collection program to fully inform the public and decision-makers about what limits are needed to fully protect Hawaii's reefs and biological diversity.

Thank you for the opportunity to comment.

Wolfpaw Hasenfuls

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A second Email-Blast (below) was a 'Kokua Alert' sent out by the executive director of the Conservation Council for Hawai'i.

**From:** Marjorie Ziegler

**Sent:** Wednesday, November 28, 2012 6:03 PM

**Subject:** Kokua Alert -Aquarium Fish Collecting Draft Rules & Hearings!

**Importance:** High

Aloha, everyone. Please help protect our reefs and precious marine resources by testifying in person or submitting written testimony on the Department of Land and Natural Resources draft administrative rules for aquarium fish collecting on O'ahu and in West Hawai'i. The draft rules and other information can be found at <<http://hawaii.gov/dlnr/dar/announcements.html>> We find these rules inadequate in protecting our reef species, and they are not based on scientific or other reliable data.

In October 2012, Earthjustice filed a lawsuit against the State of Hawai'i DLNR on behalf of the Conservation Council for Hawai'i, Center for Biological Diversity, Humane Society of the United States, and others for failing to examine the environmental effects of aquarium collection permitting in Hawai'i pursuant to the Hawai'i Environmental Policy Act, HRS Chapter 343. The DLNR is making determinations on these rules without the necessary information, or adequate public input.

Sound environmental policy must be based on adequate scientific or other reliable data so that our precious marine resources are protected and properly managed. No environmental assessment or environmental impact statement has been prepared for aquarium collecting in Hawai'i. This is your opportunity to testify on this important issue; please do so either in person next Wednesday or in writing before December 19. Apologies for any duplicate postings. **Mahalo nui loa!**

### **O'ahu Public Hearing**

When: Wednesday, December 5, 2012, 6 pm

Where: Waimalu Elementary School cafeteria at 98-825 Moanalua Road, 'Aiea

Persons unable to attend the O'ahu hearing or wishing to present additional comments may mail written testimony by Wednesday, December 19, 2012, to the Division of Aquatic Resources, 1151 Punchbowl Street, Room 330, Honolulu, Hawai'i 96813.

### **West Hawai'i Public Hearing**

When: Wednesday, December 5, 2012, 6 p.m.

Where: Kealakehe High School cafeteria at 74-5000 Puohulihuli Street, Kailua-Kona.

Persons unable to attend the West Hawai'i hearing or wishing to present additional comments may mail written testimony by Wednesday, December 19, 2012, to the Division of Aquatic Resources (DAR Kona office) at 74-380B Kealakehe Parkway, Kailua-Kona, HI 96740.

### **Suggested Talking Points**

1. Urge DLNR to strengthen limits on reef collection activities because proposed limits inadequately protect fish and omit other important reef animals.
2. Urge DLNR to adopt a limit on the number of aquarium collection permits that may be approved.
3. Urge DLNR to conduct a review of the environmental impacts of reef collection activities

**Additional Concerns from For the Fishes** <<http://www.forthefishes.org>>

1. The draft rules would allow for continued wildlife depletion and degradation of Hawaii's coral reefs. The rules do not address cultural and ethical conflicts that exist within the aquarium trade.
2. A different set of rules was drafted for O'ahu and West Hawai'i, and the disconnect between the two underscores the greed and lack of concern for wildlife and reefs driving this trade. Collecting species like the Hawaiian cleaner wrasse, considered critical for coral reef health, would be prohibited in West Hawai'i but allowed on O'ahu. Collecting the moorish idol, known to die quickly in captivity, would be prohibited in West Hawai'i but allowed on O'ahu. And both islands would prohibit the collection of some coral eating butterflyfishes because of their restricted diets, but allow others.
3. The draft rules are ineffective and harmful because they:
  - Are not science based, but are designed to give the appearance of sustainability
  - Propose meaningless bag limits that do not reduce take because they apply to an unlimited number of collectors
  - Do not include a catch verification system or address rampant underreporting
  - Are unenforceable because enforcement officers have no rights of inspection without probable cause
  - Keep intact Hawai'i's position as the world's third largest supplier of wildlife for U.S. household aquariums, with several times more fish taken from our reefs than from Australia's Great Barrier Reef, the largest coral reef on the planet.
4. For the Oahu rules, DLNR provides no information about how the agency arrived at the limits and regulations imposed in them. There is no way for the public to know what information, if any, DLNR looked at when it created the regulations, which is a huge problem from a public information standpoint.
5. For the West Hawai'i rules DLNR does not explain how it determined the limits on fish collection that are included in the rules, nor does it provide justification for why certain species have been included on the "White List" of species that may be collected. For example, one of the species that the agency considers a "species of special concern" because it is relatively rare, is Tinker's butterflyfish, but DLNR included it on the White List without any bag limits and there is no explanation in the background document about what justification the agency has for including it on the list as such.
6. The rules regulate aquarium collection in O'ahu and West Hawai'i only, which means that anyone collecting outside those areas would not fall

within the coverage of these regulations. Because the agency's aquarium collection permits allow collection statewide, it's not clear what DLNR's justification is for restricting its rulemaking to only these two areas.

**Fact Sheets Prepared by For the Fishes**

O'ahu Draft Rule Fact

Sheet: <[http://www.forthefishes.org/uploads/Oahu\\_Rule\\_Fact\\_Sheet.pdf](http://www.forthefishes.org/uploads/Oahu_Rule_Fact_Sheet.pdf)>

West Hawaii/Big Island Fact

Sheet: <[http://www.forthefishes.org/uploads/West\\_Hawaii\\_Rule\\_Fact\\_Sheet.pdf](http://www.forthefishes.org/uploads/West_Hawaii_Rule_Fact_Sheet.pdf)>

From: Earthjustice [mailto:[action@earthjustice.org](mailto:action@earthjustice.org)] On Behalf Of Heather Peach

Sent: Thursday, November 29, 2012 9:03 PM

To: [darkona@hawaiiantel.net](mailto:darkona@hawaiiantel.net)

Subject: Re: Comments on DLNR's Proposed Aquarium Collection Rules

It is unknown how many comments or testimonies were received in response to this blast.

A Third Email-Blast followed shortly by Earthjustice:

**From:** Earthjustice Alerts <[action@earthjustice.org](mailto:action@earthjustice.org)>

**Date:** November 29, 2012, 7:00:47 AM HST

**Subject:** TAKE ACTION: Speak Out For Hawai'i's Coral Reef Ecosystems

**Reply-To:** Earthjustice Alerts <[action@earthjustice.org](mailto:action@earthjustice.org)>



**TAKE ACTION! Speak Out For Hawai'i's Coral Reef Ecosystems**



Hundreds of thousands of bright coral reef fish and fragile invertebrates are removed from Hawai'i's reefs each year without a proper environmental review.

**Take Action Today!**

Dear...,

Hawai'i's famous coral reefs are known to contain a kaleidoscope of colorful species like the

**Action Alert**

**Take Action** 

Tinker's butterflyfish, dragon eel and harlequin shrimp. Unfortunately, if we don't act soon, Hawai'i could lose these vibrant sea creatures and the reef ecosystems that depend on them.

**[Voice your support for protecting Hawai'i's corals now.](#)**

Hundreds of thousands of bright coral reef fish and fragile invertebrates—many that play a vital role in protecting these corals—are removed from Hawai'i's reefs each year.

Alarmingly, the state is trying to move forward with administrative rulemaking on aquarium collection without doing a proper environmental review. **[Demand that the state of Hawai'i examine the environmental effects of aquarium collection based on good science before finalizing its proposed administrative rules.](#)**

**Attend a Hearing**

**O'AHU**

Wednesday, December 5 at 6:00 pm  
Waimalu Elementary School cafeteria  
98-825 Moanalua Rd  
Pearl City, HI 96701

**WEST HAWAI'I**

Wednesday, December 5 at 6:00 pm  
Kealakehe High School cafeteria  
74-5000 Puohuluhuli St  
Kailua-Kona, HI 96740

**Submit a Comment**

**O'AHU**

Division of Aquatic Resources  
1151 Punchbowl Street, Room 330  
Honolulu, HI 96813  
[Alton.K.Miyasaka@hawaii.gov](mailto:Alton.K.Miyasaka@hawaii.gov)

**WEST HAWAI'I**

Division of Aquatic Resources  
74-380B Kealakehe Parkway  
Kailua-Kona, HI 96740  
[darkona@hawaiiantel.net](mailto:darkona@hawaiiantel.net)

**Coral reefs across the world are already at risk of ecological collapse—faced with serious threats from climate change, ocean acidification and pollution.** And, studies have determined that herbivorous fish and invertebrates on coral reefs—the primary targets of the commercial aquarium industry—are extremely important to reef health.

Earthjustice attorneys recently filed suit to require the Department of Land and Natural Resources (DLNR) to comply with the environmental review procedures that are mandated by the Hawai'i Environmental Policy Act before issuing state-wide permits allowing aquarium collection. **[But, despite the lawsuit, DLNR is now trying to move forward with administrative rules on aquarium collection without having conducted an environmental review.](#)**

Thanks for standing up for coral reefs and all of the marine wildlife that depend on them.

Sincerely,

**Caroline Ishida**

Associate Attorney  
Earthjustice, Mid-Pacific Office

Take Action 

P.S. If you can't attend either of the above hearings, [send your comments online today!](#)



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**ALERT TOOLS**

**PHOTO CREDITS:** *Top:* Yellow tang being collected for shipment (Brooke Everett) *Bottom:* A school of yellow tang (Chris Wilson / Flickr)

**VIEW ONLINE:** Having trouble viewing this email? [View it in a browser.](#)

**LINKS:** If you cannot click on the links in this email, copy this link to your browser:  
<https://secure.earthjustice.org/site/Advocacy?cmd=display&page=UserAction&id=1391>

This email was delivered to you by Earthjustice. [Update your personal information](#) or [remove your email address](#) from Earthjustice's email list through your profile page.

A total of 379 comments were received directly from Earthjustice. They were all essentially the same as the following:

From: Earthjustice [mailto:[action@earthjustice.org](mailto:action@earthjustice.org)] On Behalf Of Heather Peach  
Sent: Thursday, November 29, 2012 9:03 PM  
To: [darkona@hawaiiantel.net](mailto:darkona@hawaiiantel.net)  
Subject: Re: Comments on DLNR's Proposed Aquarium Collection Rules

Nov 30, 2012

Hawai`i DLNR Division of Aquatic Resources (Kona Office) 74-380B Kealakehe Parkway  
Kailua-Kona, HI 96740

Dear Division of Aquatic Resources (Kona Office),  
I strongly urge the Hawai'i Department of Land and Natural Resources (DLNR) to comply with the environmental review procedures mandated by the Hawai`i Environmental Policy Act before issuing administrative rules regarding marine aquarium collection on the state's lands. Any rules that DLNR enacts should be based on sound science

and allow for meaningful public input, and should be geared towards the protection of our reefs, particularly because of the global threats they face, like climate change and ocean acidification.

DLNR's proposed rules would only apply to individual areas--if the agency approves them, there still will not be any statewide rules to regulate aquarium collection outside of O'ahu and West Hawai'i. Coral reefs are among Hawai'i's most precious resources and DLNR should have as much scientific information as possible about aquarium collection before finalizing any administrative rules.

DLNR should only approve rules that value the health of our reefs and that are based on good, scientific information after a thorough environmental review.

Comments on the Proposed O'ahu Rules:

The proposed O'ahu rules do not limit the number of aquarium collection permits that DLNR can issue. The rules propose no limits on the collection of invertebrates, and the "bag limits" for the most frequently-collected fish species, the yellow tang, would still allow a single collector to take tens of thousands of yellow tang off of the reefs every year. There are also no proposed collection restrictions for many heavily-targeted species, like the multiband, fourspot, and teardrop butterflyfishes. DLNR has provided no summary or background on these rule proposals to explain the rationale or scientific basis for them, and despite public input asking the agency to re-examine the rules based on scientific information over the past year, there has been no such review.

Comments on the Proposed West Hawai'i Rules:

The proposed West Hawai'i rules do not limit the number of aquarium collection permits that DLNR can issue. It is impossible to determine the impacts of the proposed size limits in the rules because DLNR's aquarium collection data does not capture what sizes of fish are currently being collected. There are species on the proposed "White List" that DLNR would continue to allow to be collected in unlimited numbers under these rules even though it has stated that these species are "particularly vulnerable to depletion," like Tinker's butterflyfish. The rules would also still allow unlimited collection of species that are endemic to Hawai'i, including the Hawaiian dascyllus and multiband butterflyfish, without any explanation of the scientific basis for permitting unlimited collection.

Sincerely,

Heather Peach

~~~~~

Robert Duerr

12/18/12

DAR

C/0 WHFC Proposals

1151 Punchbowl St  
Honolulu, Hawaii 96813

Dear DAR,

As a member of Outdoor Writers of America Association I enclose an article written after attending the WHFC Hearing in Kona on December 5, 12012.

I would hope that the Land Board does not pass the SCUBA Spearfishing ban. The lack of science and attention to detail is not befitting DAR. Further effort needs to be made to engage the stakeholders to understand the problem and its management options.

Mahalo,



Robert Duerr

12/18/12

Robert Duerr

### SCUBA Spearfishing Ban

PhDs, experts, and PhDs by proxy aimed brain shot testimony at SCUBA Spearfishing at the West Hawaii Fishery Council hearing to amend Hawaii Administrative Rules. Spear fishermen fighting off an effort to ban SCUBA pulled the rubber back and let fly a 3 pronged Hawaiian sling of allegations against DLNR including procedural errors, biased process, and phantom science.

The West Hawaii Fishery Council (WHFC) with DLNR's Dr. William Walsh of the Division of Aquatic Resources (DAR) held a December 5 public hearing at Kealakehe High School to amend Hawai'i Administrative Rules (HAR) chapters 13-54,13-57 and 13-75, repeal 13-60.3 and adopt a new chapter 13-60.4.

The full cafeteria of 250 people was contentious at times. Testifier Wesley Murakane said that this "is the biggest turnout that I've seen in Kana."

Dave Zimmerman observed, "I can feel the animosity..." Shawn Jacobs remarked: "when you see who is opposing and who is for, it's like a Democratic and Republican convention."

The proposed rules would govern in the West Hawaii Regional Fisheries Management Area (WHRFMA). Established in 1998 by legislative Act 306, the WHRFMA encompasses 147 miles of shoreline from

South Point to Upolu Point. The WHRFMA is overseen by a partnership between the West Hawaii Fishery Council and DLNR's Division of Aquatic Resources.

The rules were introduced to the crowd by DAR's Dr. Walsh. They propose a SCUBA spearfishing ban, closing aquarium collecting within 1,500 feet of Ka'ohe Bay aka Pebble Beach, an aquarium collecting "white list" of 40 fish species, and regs on inshore sharks, rays and two invertebrate crown-of-thorns predators. There are other rule changes including marking aquarium collecting gear with identification, lay net offsets and regulation housekeeping changes.

The hearing had the unusual practice of written PhD testimony being read by proxy allowing the speaker to receive 6 minutes, twice the allotted time. Testimony was heard from Dr. Brian Tissot, Dr. Chuck Birkeland, Dr. Ross Martin, Dr. Todd Stephenson, Dr. Jack Randall. Phd testimony was scripted in an unanimous call for passing the rules as a complete package.

A Mr. Thompson read a Phd statement from Occidental College and then personally summed the feeling of the SCUBA spearfishing naysayer testimony: "Spearfishing is not a sport it is a slaughter."

While Dr. William Walsh Kona's DAR biologist presided sitting casually akimbo against a stage, former Hawaii representative David Tarnass took the microphone telling the crowd that he wrote Act 306.

The WHRFMA 2010 report to the Legislature states that the Act was passed "largely in response to longstanding and widespread conflict surrounding commercial aquarium collecting."

Key parties to the original conflict were the aquarium fish divers and fish preservation groups like the Lost Fish Coalition. Since the early days of robust interaction, the aquarium collecting issue has mellowed. Not so for the SCUBA ban.

Joy Mills testified: "I have to say this bill is not pono...We all want to be in the ocean. It needs to be reworked. You need to talk to the people who know. Not just the scientists."

Tarnass explained that the purpose of WHRFMA was to help DLNR manage with science "to make well informed resource decisions."

Tarnass celebrated WHFC's success saying that the management area is "effective, the nearshore is enhanced" and stocks of fish like yellow tang have increased. Kona coast day moorings set to avoid coral reef damage are clearly a win for the WHFC.

However, regardless of Tanass' original intent reviewing WHFC's

scientific effort supporting the SCUBA spearfishing ban is not tedious because there doesn't appear to be any.

Former WHFC board member Teresa Nakama said of the ban, "10 years and thousands of hours there's never science."

The WHFC's document "Background on Proposed Hawaii Administrative Rule #13-60.4 West Hawaii Regional Fishery Management Areas, Hawaii" details the history of the ban Spearfishing proposals.

Scuba has a WHFC mention in 9/19/01 when Dr. Charles Birkeland cites coral reefs being affected by technology like SCUBA and night lights. On February 17, 2002 the Miloli'i Local Resource Council takes community input recommends a ban on day and night commercial scuba spearfishing.

On Feb 20 that same year, a WHFC SCUBA spearfishing subcommittee is formed "to organize, obtain info, set parameters to deal with spearfishing with scuba and present to council."

Kawaihae Local Resource Council holds a meeting on 6/19/02 and says that SCUBA spearfishing "is especially harmful due to efficiency." At this meeting Dr. Richard Brock promised a cure-all "that if spearfishing with SCUBA were to stop there would be a gradual but sure increase in targeted fish, increased habitat health (coral) and a decrease in invasive species."

If WHFC grapples for over 10 years with spearfishing regs, it is not surprising. The history of regulating spearfishing in Hawaii is as tangled as a he'e slipping off a Hawaiian sling. It was prohibited by Act 82 in 1971. In 1977 Act 185 allows for selling speared u'u, uhu and kumu. By 1979 Act 229 removes the ban for a 4 year trial period. All spearfishing regulation is void in 1983 with the passing of Act 62.

By the end of 2002 Rick Gaffney's spearfishing subcommittee's, "comprised of active West Hawai'i spear fishermen and council members," outlines 8 possible scuba spearfishing management solutions.

These eight potential management solutions are: take no action, make closure areas, increase size and bag limits, ban night scuba spearing, ban commercial spearing, ban recreational SCUBA spears, ban all SCUBA spearfishing. The eighth solution is to take "other action."

What kind of "other action?" Puna Brown testified: "This is not the Hawaiian way. You need to ask the right people. The people in the water." Why did a complete ban get the WHFC grade of approval?

Throughout the WHFC scoping night diving with SCUBA is seen as an opportunity to easily kill sleeping fish. No action is taken. The council does appreciate benefits of size limits and bag limits which "benefits the fishery with

blanket law of all user groups."

Regulations outside of a total ban are seen to have merit. The spearfishing subcommittee believed that commercial divers are likely to follow regulations if not a total ban. These divers are highly skilled and unlike recreational divers would catch less fish. Fishermen if educated are believed to become law abiding.

A ban of scuba spearfishing according to WHFC analysis "removes a highly efficient fishing method." The analysis also says speciously of the ban: "Any increase of lack of, in the nearshore fish stocks can be easily attributed to this decision."

One diver counters that with SCUBA spearfishermen banned nearshore diving pressure will certainly rise. An enticingly seductive ban argument for DLNR is that it's "easy to enforce."

In the WHFC "background" document Dr. Walsh doesn't lobby for science funds or studies instead he advocates for scientific non-science. He calls it "Precautionary Approach:"

"Precautionary Approach is a means to manage our resources when there is insufficient scientific data...The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management actions..."

Walsh continues: "If the Precautionary Approach had been used back in 1955 when the Division of Aquatic Resources recognized that there were major declines there would be less need to establish a network of marine protected areas today."

The proposed ban would make it illegal to have spearfishing gear and SCUBA tanks on the same boat. Testimony given by president of Big Island Association of Aquarium Fishermen and a 5 year member of WHFC, Robert Hajek, said that collectors use spears to protect themselves underwater.

Spearfishing is not sport in Hawaii it is food gathering. Hajek says: "We fish out of Miloli'i...different houses ask if we can get some fish...special occasions...a luau...We spear fish for the village...We've been doing this for a long time."

Older divers see SCUBA as a way to enjoy depth with shortened breath and as a safety precaution to help legally harvest fish without fear of shallow water blackout. One diver said that SCUBA is not evil because it is technology, "it's like a cell phone do you ban that?"

SCUBA spearfishing is already covered by regulations and becomes illegal when bag and size limits are violated.

Tracy Kubota, a public policy analyst from Honolulu, testified about the ban's double jeopardy:

"There's current limits, bag limits, size limits. Is something already illegal more illegal? Spear violations with SCUBA tanks or not is already in the books. SCUBA and spear on a boat automatically being a violation I think it's poorly written...opinion based not empirical knowledge."

Unlike coral reef and aquarium fish science, was WHFC ever concerned with spearfishing's empirical data? Ironically the Phd ban testimony included no science while the hearing's local speakers kept calling for it.

What about spearfishing surveys, interviews, creel reports, CPUE, L-50, seasonal pressure, target species, poaching pressure, landings, habitats affected, historical patterns, Hawaiian gathering rights. eliminating invasive species like roi and taape. Where is the methodology that scientific marine wildlife management uses?

If WHFC is short on spearfishing science, Walsh did supply HFN with NOAA writers Brent Stoffle and Stewart Allen's co-authored paper "The Sociocultural Importance of Spearfishing in Hawaii."

It was written to "contribute to the development and refinement of the fishing community profiles for Hawaii in response to The Magnuson- Stevens Act National, Standard 8."

Stoffle and Allen interviewed over 100 spearfishers and studied the Hawaii Marine Recreational Fishing Survey from 2002 to 2007. Spending most of their research time on Oahu, they did travel to the Big Island for a week.

Their work provides a good overlay and they understood quickly that spearfishermen are "a group often perceived to be under represented in the policy process yet they play an integral role in commercial, recreational and subsistence fisheries."

Voodoo science is one thing but was there a biased process with the WHFC's rule package? Many people against the rules package testified that the process was not "vetted" properly. They allege that dissenting voices were not heard.

Kubota continues: "I feel the process was not vetted properly. They're not doing the job. They never stated that there is a problem. Why go on and on...go back to the Department and vette to the whole state."

The "Small Business Impact Statement..." submitted on the proposed rules package maintains there's "16 commercial fishermen who engage in SCUBA

spearfishing (the primary commercial harvesting activities affected by the proposed rules.)"

The impact statement claims "The value of SCUBA-spear fishery in West Hawaii averages approximately \$35,000 annually (FY 2007-2011)." Sixteen divers and \$35 grand does not make an environmental crisis on 147 miles of coastline. Not only where is the science but where is the problem?

Aquarium collecting in contrast is a business netting \$1.3 million dollars yearly.

Mike Nakachi said at the hearing that the WHFC rules proposal "hasn't been vetted properly where are the fishermen?"

Hajek added: "WHFC doesn't take into account local fishermen...they are falling through the cracks...engage to get in the system...ask them to get in the system..tonight is a start."

"WHFC is not for the stakeholders." Phil Fernandez a Kona based community fishery activist tells HFN in a phone interview, "Do not fault the original intent...it's due to bias and manipulation of the organization."

Rene Umberger, from Maui and a member of the group For the Fishes, told the hearing that DLNR "the division has misled with fear tactics. DAR is calling this an all or nothing up or down vote."

She goes on to say that "it is an illegal process broken, spreading propaganda." She claims that both calls and emails to DAR Kona were "intimidated" to go along with the party line.

"Messages of cohesion by intimidation...dissent is part of the process." DAR according to her lobbied for the rules to be accepted as a package. She claims that DLNR was concerned that a 10 year process would go "down the drain." She counters, "This is not all or nothing process making."

One way that the Act 306 process is said to be askew is in the appointments to the WHFC. The council is mandated to have "substantial community involvement" by stakeholders. WHFC maintains that over the years they have had 50 board members and over 1800 citizens attending meetings.

"The primary wrong is the document says that it should be a balanced council of stakeholders from the community." Fernandez explains and furthers with strong accusations:

"If there is a seat empty there is an obligation to recruit. They can run ads to recruit. Seats that they don't want filled don't get filled. Seats that they do want get calls and instantaneously approved. People against the council; there's an executive session and they are not approved."

According to Fernandez stakeholders whose interest may not align with the ruling powers are seen not to be in support of the mission so ineligibility for WHFC logically follows. "Support the mission...this person doesn't...so not a member. Biased council today...they have a biased council."

One person who was denied membership was the 18 year TV "Fishing Tales" host and activist Mike Sakamoto now deceased. On April 17, 2003 Sakamoto went into the WHFC minutes as saying he "opposes ban on spearfishing of any type; manage (bag/size limits) but not ban it."

Former WHFC board member Teresa Nakama remembers Sakamoto attempting numerous times to become a board member. Each time he was denied. Chuck Johnston, publisher of Hawaii Fishing News, recalls Sakamoto, who was a HFN writer, telling him of the ordeals of the WHFC application process.

Sakamoto lived on the Hilo side but made the trip to Kona to join the council. He was a nationally recognized fishing expert and well rounded waterman using all fishing styles and methods including diving. He was a community kupuna and gave many demonstrations to keiki and adults alike.

Johnston recalls of the application process: "Mike told me that it was not an interview. It was an interrogation. He asked them a question and they turned to him and said 'you're not allowed to ask questions.'"

Sakamoto was denied membership. Johnston Sakamoto contacted Bill Devick, DAR head at the time, about the transgression.

Tate Marks is one fisherman testifying at the hearing who told HFN that he "tried twice to join the council and told it was a conflict of interest to be a fisherman." The person who told him that being a stakeholder was a conflict of interest was Hannah Springer.

Marks is a well respected fisherman and Hawaiian waterman in the westside ocean community. He stands firmly against the ban. Here's a sample of his testimony:

"I feed my family with the ocean. We are fifth generation. My father only fished. I have more sea time than everyone here. My father has more time than me. All your stories...bullshit because I see it everyday. I don't read it off the internet."

He then made a stakeholder pledge which he says he's made relentlessly at these meetings: "I volunteer my time, my boat and my money. Tell me what you want to see and I'll show you."

Fishermen complained that the WHFC bias has bordered on barbed

ridicule and condescending harassment by those with self-appreciated and perceived higher I.Q.s. Stakeholders repeatedly tell the hearing's microphone and paraphrase the 6th century Chinese sage and Taoist founder, Lao-Tsu's claim, "Those who don't know say. Those who know don't say."

If the WHFC's no science is topped by biased process, the WHFC institutional procedural errors make it appear like a banana republic with bunchy top virus.

The West Hawaii Fisheries Council operates without bylaws and instead functions with "Operational Practices and Procedures." They were last worked on in 2005.

The "Operational Practices and Procedures" call for a "Term of membership shall be two years with a two-term limit or four years." It has been seen that membership has not fulfilled stakeholder requirements. But are members allowed to extend terms?

Though HFN has asked for minutes from WHFC's founding date, they have yet to appear.

Fernandez says "term limits are another violation. And as a consequence members get comfortable and ex-party agreements follow."

The procedures call for selection of 3 chairpersons. "Selection of one of three Council chairpersons shall take place at the regular meeting following the annual membership retreat."

"Each Chairperson may serve a three (3) year term beginning when new members are elected." The sole chairperson Glennon Gingo says that the triumvirate rulership "occurred in the early years."

When HFN first spoke to Gingo he stated he was on the board for 11 years. He does suggest that he has been chairperson for over 3 years.

"The longest standing chairperson will stand down first and that seat shall be filled by the newly elected chairperson." Gingo says he'd like to step down but "no one came to replace."

Fernandez says "another issue is proxy voting, It's legal under the procedures but if people miss two consecutive meetings it's grounds for disqualification."

Fernandez says "as a result people come to meetings and attend the meeting by proxy for the missing members. Attending members have attended by proxy for multiple members." Of course they also vote by proxy for multiple members.

Gingo makes the claim that the council "is not mandated by the legislature." He is a seasoned community volunteer and knows the pitfalls of filling a board, "I wish someone would come and do it."

Not wanting to be tied to cumbersome rules he says the WHFC "is operating by best practices leadership and getting something done." He does say that he has been telling the board about some of the procedural shortfalls but so far rules amendments haven't happened.

Why is it important that WHFC become the diverse community based organization that Tarnass and Act 306 envisioned?

Stoffle and Allen state that "Spearfishermen in Hawaii believe that spearfishing is more than just learning to fish; it is learning the appropriate ways to fish, the life cycles of fish, and how to carry oneself as a responsible fishermen (an important part of one's identity as a "good" and respected" fisherman)."

Makani Christensen, Kamehameha Schools and U.S. Naval Academy graduate, gives testimony against the ban and to a revitalized community stakeholder process. He speaks:

"Everyone in this room has a responsibility to take care. Listen to fishermen we have a wealth of knowledge more than any Phd I've heard. I ask to reach out...to bridge the gap. It's a gap that is affecting our socio economic...! ask you to bridge. We can do this...The fishermen are not the enemy."

What is the problem with fishermen not being Act 306 stakeholders? Carl Dellings, an akule fisherman from Waianae active in fishing issues, "especially the future of fishing, "since the 1980's, is at the hearing:

"What I hear is saving for the future generations. If you don't train your child to catch...how to be conservation. It's how you fish sustainably. I know people who train their kids over and over until they master it...you train a child so he can train his child."

The hearing process will now have written testimony was due by December 19, 2012, to the Division of Aquatic Resources (DAR Kana office) at 74-3808 Kealakehe Parkway, Kailua-Kana, HI 96740. The Land Board will hear the proposals at a future meeting. If approved it will go to the governor for signature.

If you have concerns contact William Aila DLNR Chair at 1151

Punchbowl Street Honolulu Hawaii 96813. Tel: (808) 587-0400. Email: [dlnr@hawaii.gov](mailto:dlnr@hawaii.gov). Contact your local representatives at the State House. Contact Governor Abercrombie directly The Honorable Neil Abercrombie Governor, State of Hawai'i Executive Chambers, State Capitol Honolulu, Hawai'i 96813 Phone: 808-586-0034. Or contact your a local island governor's liaison. <http://governor.hawaii.gov/about/governors-neighbor-island-liaison-offices/>

Draft rules may be reviewed on the Division of Aquatic Resources website at <http://hawaii.gov/dlnr/dar>

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**STATEMENT OF TERESA M. TELECKY, Ph.D.**

Regarding Amendments to Chapters 13-54 and 13-57, Repeal of Chapter 13-60.3, Adoption of a new Chapter 13-60.4, and Amendments to Chapter 13-75 (6/24/2011)

I am a professional zoologist employed by Humane Society International (HSI), the international arm of the Humane Society of the United States (HSUS), in the position as Director of the Wildlife Department. I obtained my Ph.D. in zoology from the University of Hawaii at Manoa in 1989. I have worked for HSI/HSUS since 1990. My area of expertise is the conservation and welfare impact of the international trade in wild-caught animals.

In preparing these comments, I have reviewed the most recent scientific and management information that pertains to the West Hawaii Regional Fisheries Management Area aquarium fishery. I would like to make it clear that the comments I will make are not intended in any way to question the value or quality of scientific research that has been and is being done by State of Hawaii biologists on the animals that are targeted by the aquarium trade. Rather, my concerns focus on the use of that science in development of these rules and management of the fishery.

**White List**

The proposed rules contain a proposed “white list” of species that can continue to be collected. The white list is a form of species exclusion, a typical management tool used to ensure that species that are sensitive to collection, including those that have been depleted due to over-collection or those that are naturally rare or endemic, are excluded from the fishery. However, more than half of the 40 species on the proposed white list are species that have already been depleted by overharvesting by collectors, species that are in decline for other reasons, or species that are threatened with extinction. The inclusion of such species in the white list renders it inadequate.

According to the Hawaii Department of Land and Natural Resources (DLNR), Division of Aquatic Resources (DAR) the following 10 species contained in the proposed white list have already been over-harvested by aquarium collectors (Walsh et al. 2010)<sup>1</sup>:

- **Yellow tang:** DAR documented the “major impact” that aquarium fishing is having on the yellow tang,

the most intensively collected species in Hawaii, stating, “The yellow tang, *Zebrasoma flavescens*, is particularly noteworthy as the disparity between the open areas [where aquarium collecting is allowed] and the FRAs<sup>2</sup> [where aquarium collecting is not allowed] is substantial and continually increasing.

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<sup>1</sup> William Walsh, Russell Sparks, Camille Barnett, Courtney Couch, Stephen Cotton, Darla White, Kristy Stone, and Eric Conklin. 2010. Long-Term Monitoring of Coral Reefs of the Main Hawaiian Islands. Final Report, 2009 NOAA Coral Reef Conservation Program, State of Hawai'i Monitoring Report, NA06NOS4260113, 10/01/2006 - 09/30/2010. Hawaii Division of Aquatic Resources, Department of Land & Natural Resources.

<sup>2</sup> Fish Replenishment Areas, where aquarium collection is not allowed. Averaged over the past three years ('07-'09) yellow tang are 73% less abundant in the open areas as compared to the FRAs. Yellow tang are by far the most heavily targeted species in West Hawai'i and over the past decade the numbers of aquarium collectors and collected fish have increased substantially (Figure 60). A substantial and increasing impact of collecting is clear on yellow tang indicating the need for additional management measures” (Walsh et al. 2010, page 105). An estimated 60% of the yellow tang population in the 30-60 ft. range is taken by collectors (Walsh et al. 2010, page 113).

- **Kole:** DAR also documented that the second most collected species, the kole, *Ctenochaetus strigosus*, “also exhibits a collecting impact” and that “open areas contain 30% fewer fish than the FRAs” (Walsh et al. 2010, page 105).
- **Bird wrasse:** DAR documented “clear evidence of collecting impact” with 24% fewer in the collected areas, compared to protected areas (Walsh et al. 2010, pages 105, 106).
- **Multiband butterflyfish:** DAR documented “clear evidence of collecting impact” with 9% fewer in the collected areas, compared to protected areas (Walsh et al. 2010, pages 105, 106).
- **Forcepsfish:** DAR documented “clear evidence of collecting impact” with 44% fewer in the collected areas, compared to protected areas (Walsh et al. 2010, pages 105, 106). Another species, the longnose butterflyfish, is not differentiated in trade from the forcepsfish, as they are look-alike species. Although the longnose butterflyfish is not included in the proposed white list, DAR documented that its population is reduced overall with an increasing disparity between the collected areas and protected areas, a situation described by DAR as an “alarming pattern”. The fact that the forcepsfish is on the white list raises the concern that longnose butterflyfish will be collected and traded as forcepsfish, and that this will be detrimental to the survival of a species not on the white list.
- **Blackside hawkfish:** DAR documented 18% fewer in the collected areas, compared to protected areas (Walsh et al. 2010, pages 107, 108).
- **Thompson’s surgeonfish:** DAR documented 41% fewer in the collected areas, compared to protected areas (Walsh et al. 2010, pages 107, 108).
- **Black durgon:** DAR documented 152% fewer in the collected areas, compared to protected areas (Walsh et al. 2010, pages 107, 108).
- **Goldrim surgeon:** DAR documented 126% fewer in the collected areas, compared to protected areas

(Walsh et al. 2010, pages 107, 108).

- **Chevron tang:** DAR documented 19% fewer in the collected areas, compared to protected areas (Walsh et al. 2010, pages 107, 108).

The proposed “white list” of 40 species that can continue to be collected also includes 7 species that have declining populations according to the DAR (Walsh et al. 2010, pages 108-110). These are:

- **Achilles tang:** DAR estimated 80% of the population in the 30-60 ft. range is taken by collectors.
- **Orangespine unicornfish**
- **Eightstripe wrasse**
- **Lei triggerfish**
- **Saddle wrasse**
- **Hawaiian whitespotted toby**
- **Fourspot butterflyfish**

The proposed “white list” of 40 species that can continue to be collected also includes three species that are described in the 2005 DLNR Comprehensive Wildlife Conservation Strategy<sup>3</sup> as threatened with extinction because they are “prized by aquarists” and require conservation actions to “protect current populations”; these are **Tinker’s butterflyfish, psychedelic wrasse, and Fisher’s angelfish.**

Finally, the proposed white list contains the **Hawaiian dascyllus (*Dascyllus albisella*)** which in September 2012 was proposed for listing under the U.S. Endangered Species Act<sup>4</sup> because of threats to its habitat caused by coral bleaching and ocean acidification.

### **Bag Limits**

The proposed rules contain proposed “bag limits” for three of the 40 species on the proposed white list. The purpose of establishing bag limits is to limit the number of fish that can be collected by each collector which, in combination with limits on the number of collectors, will control and reduce fishing pressure on the species with bag limits.

The first concern about the proposed bag limits is that it is not accompanied by a proposed limit on the number of collectors. This renders the proposed bag limits completely ineffective. To explain: if there are currently 30 collectors with a bag limit of 10, this would limit the number of fish collected to 300. However, if there is no limit to the number of collectors, and that number increases to 60, each with a bag limit of 10, then this would limit the number of fish collected to 600. Bag limits are ineffective without “limited entry”, meaning a limit on the number of collectors who can get permits to catch fish.

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<sup>3</sup> Mitchell, C., Ogura, C., Meadows, D., Kane, A., Strommer, L., Fretz, S., Leonard, D., & McClung, A. (2005). *Hawaii’s*

*comprehensive wildlife conservation strategy*. 13-14, Hawaii Department of Land and Natural Resources, Honolulu, HI. [http://www.wildlifeactionplans.org/pdfs/action\\_plans/hi\\_action\\_plan.pdf](http://www.wildlifeactionplans.org/pdfs/action_plans/hi_action_plan.pdf)

<sup>4</sup> Center for Biological Diversity, 2012. Petition to list eight species of pomacentrid reef fish, including the orange clownfish and seven damselfish, as threatened or endangered under the U.S. Endangered Species Act.

[http://www.biologicaldiversity.org/campaigns/reef\\_fish\\_in\\_peril/pdfs/Clownfish-and-damselfish-petition-2012.pdf](http://www.biologicaldiversity.org/campaigns/reef_fish_in_peril/pdfs/Clownfish-and-damselfish-petition-2012.pdf)The second concern about the proposed bag limits is that it is applied to only three of the 40 species on the white list (**yellow tang**, **kole**, and **Achilles tang**). As noted above, most of the species on the white list have already been depleted by overharvesting by collectors, are in decline for other reasons, or are threatened with extinction. Each of these species should have bag limits to allow recovery of their populations. And, the bag limits must be accompanied by limited entry.

The third concern about the proposed bag limits for two species, the **yellow tang** and **kole**, is that they specify the sizes of fish to which the bag limit applies and these sizes are not those targeted by collectors. This means that the bag limits for the yellow tang and kole will not in fact limit the number of fish collected. For example, the proposed rules contain a bag limit of 5 of yellow tang larger than 4.5 inches and 5 that are smaller than 2 inches, but these are not the sizes targeted by collectors. Rather, collectors target yellow tangs that are 2 to 4 inches in size.

The fourth concern about the proposed bag limits is that for the **Achilles tang**, considering the current number of collectors, the proposed bag limit would result in far more fish being collected than the number taken now without bag limits. For example, in 2011 twenty-five collectors collected 7,040 Achilles tang. With a proposed bag limit of 10 for these same twenty-five collectors, the 2011 total catch would be reached in just 29 days.

## **Conclusion**

Coral reefs are in serious decline worldwide due to a number of anthropogenic factors including climate change and over-fishing<sup>5</sup>. As testament to the seriousness of these threats, in November 2012, the U.S. federal government proposed to list 66 species of coral species as Endangered or Threatened under the Endangered Species Act (ESA)<sup>6</sup>. The corals, many of which occur in Hawaii—such as the Blue rice coral (*Montipora flabellata*) found only in Hawaii, and the Hawaiian reef coral (*Montipora dilatata*), which remains in fewer than five locations—have declined by more than 30 percent in the past 30 years due in part to global warming. Warmer water causes corals to “bleach” and die. A recent study on the vulnerability to extinction of coral reef fishes found that fish subject to both climate change and fisheries exploitation are most at risk of extinction<sup>7</sup>.

These threats do not act in isolation but rather have synergistic impacts on the survival of species. Local factors, such as over-fishing, are far easier to control than global factors like climate change. It is vitally important that managers ensure that coral reef wildlife are protected from over-fishing.

The DLNR—which it is important to note has never conducted an environmental impact assessment on aquarium collection as required under the Hawaii Environmental Policy Act (HEPA)—has been trying since 1998 to develop a sustainably managed aquarium fishery in West Hawaii. However, unfortunately, as documented in

<sup>5</sup> See for example, Anthony et al. 2011. Ocean acidification and warming will lower coral reef resilience. *Global Change Biology* 17: 1798-1808. [http://reefresilience.org/pdf/Anthony\\_etal\\_2011.pdf](http://reefresilience.org/pdf/Anthony_etal_2011.pdf)

<sup>6</sup> <http://www.nmfs.noaa.gov/stories/2012/11/82corals.html>

<sup>7</sup> Graham et al. 2011. Extinction vulnerability of coral reef fishes. Ecology Letters 14: 341-348.

a 2010 DAR report (Walsh et al. 2010) and as described above, the fishery has caused and continues to cause serious damage to fish populations. And now, instead of proposing rules to address this over-fishing and allow depleted populations to recover, the Department has irresponsibly proposed a white list that allows collectors to continue to deplete already depleted species, and bag limits that are meaningless. If the intent and purpose of the proposed rules is to ensure the sustainability of the aquarium fishery then they have fallen seriously short of that goal.

Not only will the proposed rules allow continuation of the unsustainable aquarium fishery in West Hawaii but they will also not address the community's concerns about this fishery. A June 2012 poll conducted by Honolulu-based Ward Research<sup>8</sup> found that more than two-thirds (69%) of Big Island residents support ending commercial aquarium collecting. The reasons Big Island residents support ending the trade include, in order of importance: concern about negative environmental impacts to coral reefs, disrespect of native Hawaiian values of caring for the land and ocean, inhumane treatment of reef wildlife, and the negative impact on those who rely on fish to feed their families. Most Big Island residents (72 percent) agreed that only captive-bred fish should be kept in saltwater aquariums, even if this meant the number of species available for purchase was dramatically decreased.

Indeed, the only thing that will be achieved by the proposed rules is make it seem as though the DLNR is addressing the unsustainable trade when it is not, while minimizing the impact on the collectors: the proposed rules would reduce the numbers of fish collected by only 1% and reduce trade revenue by less than 0.01%.

### **Recommendation**

I urge the Department of Land and Natural Resources to establish an immediate moratorium on commercial aquarium collecting unless and until the requisite HEPA analysis has been conducted and measures to demonstrably prevent over-fishing are developed and implemented.

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<sup>8</sup> <http://hawaii.tribune-herald.com/sections/news/local-news/most-residents-want-aquarium-fish-collecting-banned-poll-says.html>

Dec. 05, 2012

Aloha, my English name is Melvin G. Mason, Jr. [Speaking Hawaiian]. I was raised in Waipio, Valley of the Kings. The kupuna talked about Kamehameha. Yes, my family raised Kamehameha.

A lot of things of the ahupua'a system relates to relationships. It wasn't just a relationship of what we're all trying to do here tonight with each other, but the relationship with the aina, the mauka and the makai. I was brought up in Waipio [speaking Hawaiian]. I'm mostly English and Scottish.

My great grandma is [Hawaiian] who is the sister of Queen Liliuokalani, King Kalakaua. I'm also related to the white man. Interesting, yes. The characteristics is not about me. It's about us.

We sustained ourselves from many, many generations. How I know, 'aumakua. I carry the name. I'm the first born son for the next seven generations. That is my kuleana. It's not about me. It's not about my children. It's not about even my hanai children, the 13 -- actually, I get 14, one more today, pure haole, blond hair, blue-eyed kids said teaching them the right things, what is pono.

I honor the Marks' ohana in the back and some other kupuna because what they do is what they know. What they think they know, because this is just administrative rules, because we can go back to the semantics of the constitution which is just de facto quasi state '78 administrative rights, Concon, [ph] but people forget about the llll [ph], yeah, the exploring and exploiting of Hawaii's resources. Not just you, most of you know what I'm talking about because this is just one small part. There's a major, bigger part of the resources of Hawaii. I grew up with my grandfather, we had a canoe, kawa'a where he [tapping], the vibration, the connection where fish come up and swim. Why, because our ko'a. So a few people talked about two elements, in taking care of how the fisherman takes care of his ohana, his community, his ili, but there is more to it.

There is five elements. Five elements is about the fisherman, that teaches how to fish, then teaches how to catch the fish because it might be the wrong time, wrong place, wrong season, wrong moon, wrong bait. We have this relationship.

Fourth is that when you learn how to catch it, then we learn how to prepare it. This is when the teacher and the student becomes the lawai'a is just the point of student. The fisherman becomes a student and the student becomes a fisherman when we pass to the next generations.

The ko'a, the fifth element that comes to this is the ko'a. My family, we malama all 'aumakua. Yeah, we get opihi this week, we let them do this. See, most you forget about procreation [speaking Hawaiian], look to the source. Every single source that we have was, not just the fish, because why most of you scientists with Ph.D. forget about pesticides, insecticides, the quality of water. Why you guys forget about that?

Industrialization, urbanization, you guys forget about that. That's the characteristics of things that have changed because most of you love Hawaii, come to Hawaii. I was fortunate to be here today, why, because I'm also white.

My English bloodline, I am of King Richard III. The family brought the crown to Hawaii. It's very heavy for me. It's hard because I have to balance within myself to understand the clarity and the truth about life, love, aloha, how we can malama what we need to do. Literally, you guys like pesticides and insecticides. Out. Why, the water quality from mauka to makai, when the rain come, it goes into the ocean.

You guys don't even think about that. Talking about the water quality of the fish, I know most of the study is all about the kou [ph]. That's what makes the habitat enriched with itself.

DLNR, most of you got to come to an understanding of the clarity of even the point of jurisdiction. They do not have jurisdiction from Waipio to Pololu. My kuleana, in my family, we malama, we take care because many people who go there, they die, because the mano eat them. We malama the mano.

The canoe, yeah, we take, we hunt, too. We feed the mano first, and then we swim. Then we know already full the opu [speaking Hawaiian].

The clarity that comes down to these things is that I understand that even at the age of 7 I had to learn the white man way. It was difficult. You guys also forget about the mapuna wai, how come, the freshwater, what about the opae, starts with the opae.

You know, just like the county council, they got involved in two things, getting to the fisheries, they don't have jurisdiction in that. Yes, there is many generations. Why, because I [speaking Hawaiian], Hualalai, 55 BC, my kane nui.

That's kuleana. Kuleana that comes down to this, is that yes, I've come to Kona, I've shared a lot, I come over catch two uluas, was fortunate enough down in certain places and points that we can do what we need to do, with even our upena.

You know, I listen to a lot of the testimonies tonight, and it's kind of sad. You guys like learn, not just talk, just make words because you know what, the pretense of all these words most of the people can't even understand, the semantics and clarity of the truth that everybody is trying to rely upon.

Yeah, I do have a Ph.D., pretty handsome and us Hawaiians, we go deep, very deep. You know, when my grandfather passed away, it was very hard because it passed onto me because of the kuleana that comes down to these things. Yes, lifetime, Aunty, not about 7 minutes or 3 minutes or 2 minutes or 1 minute or 15 minutes, it's a lifetime. We talk about lifetime kuleana after kuleana after kuleana. That is why a lot of the Hawaii Revised Statutes comes from the constitution of the so-called administrative rules, 1978, not 1959 statehood. Statehood is not what it is because House of Congress never even ratify, never vote because they have no jurisdiction. You know why I know, my great great grand aunt signed the executive order.

There is clarity to truth. We can live here together. It's not about compromise because it's Hawaiian don't compromise. This Englishman, I don't compromise. This Scottish-man, I don't compromise. Yes, I am a Wallace, Scottman, related to the Greenwells, too.

But you know what comes down to a lot of these things is truth, not my truth, our truth because this compromising is what kills everything. So it's about co-existence, having the relationship with the ocean.

Yes, I have clearance for going Kaloko pond. Why, how come only me, how come only a few family members. You know why, because we take on the kuleanas. We take on the responsibilities. And these are the kind of things -- if you need one job, just ask because most of us we don't even ask to get paid for do what we do.

I know that the DLNR and what they trying to do is because they want to cut costs because the 11.2 billion dollar can't even pay for retirement or medical. There is more to the story than just this. This is just one small little part, but the small little part makes a difference because if that opae don't survive that i'a don't survive, circle of life [speaking Hawaiian]. The [speaking Hawaiian] has everything to do with this.

Yeah, reality, that's what made who we are today, our mothers and our fathers. We are generational. Same thing with the i'a, same thing with the pua'a. Our relationship was because there was our 'aumakua, and we mahi'ai even our 'aumakua. We model the spirit. Even had someone talk today about the spirit of Hawaii leaving, that's good. Maybe the aloha stay going with them, and when they come over here, they already know.

You know Ph.D., hmmm, go check Harvard University. I, actually, did a presentation for them. I was blown away, doing Harvard professors, educating them about the sun, the moon, the stars, the relationship, sun, [speaking Hawaiian]. We take care of mahina and how mahina take care of us. The medicine, how I know. Who eat squid luau. Sometimes when we come what we call between October 5th to February, makahiki, we malama our ko'a and we don't fish the ko'a. My family still do that today. That's why we have. I understand that we all need for survive. We do.

The other, rest of the people talk about Ka'ohē Bay. If you have been maintaining it eight years, you must have a lot of fish. Take your breeders and move them. That's the thing that needs to be educated amongst people because they take the female and the male breeders. Take the mahu i'a. You know the mahu i'a. It's a fish that stay turning between should I be female or should I be male. That's what you eat, because that's what's going to sustain you because there is a lot more of them because they're trying to judge on their own semantics of how their own survival and say am I going to be a male or am I going to be a female. Yeah, I'm a scientist now.

The kupuna is important, very important. Don't forget the kupuna, Uncle Willie over there and then the Marks brothers are going to become kupuna soon. You know, kupuna is nothing to do with age, has everything to do with knowledge and that's how we survive here for thousands of years. You guys go check them out, Kings' Shops, Queens Shop, go walk on the pahoehoe, go look at our marked words, petroglyphs, the pohaku, it tells the stories.

I'm not here to tell you a story. I hear to tell you the facts, the truth. These words, most of them bogus, because you know why, everybody is just trying to survive and this is just one way to make the kala, the money, the federal reserve note, the fee, the dollar that is worth nothing today. And they can go KTA, Wal-Mart, Safeway, you get good poke over there, but the

know the best poke I ever taste is when you get ohana and nothing to do with the color of your eyes, your hair, your skin, when we can come as an ohana, luaus, parties, yeah, and weddings. That's what make Hawaii real. It's about relationships. It's about having a relationship with your i'a.

Mahalo.

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**From:** Matt Pedersen  
**Sent:** Wednesday, December 05, 2012 7:58 AM  
**To:** darkona@hawaiiintel.net; Alton.K.Miyasaka@hawaii.gov  
**Subject:** Regarding Today's Aquarium Fishery Hearings

Today the DLNR will hold hearings on proposed additional rules and regulations surrounding the marine aquarium fishery. These new rules add restrictions and improve the DLNR / DAR ability to manage the fishery.

As both a veteran aquarist, but also a fly fishing angler, I am well aware of the implications and need for fisheries management practacies, and I am therefore largely in support of these rule packages.

Living in states where fisheries managers can close fisheries or change quotas, angling methods, seasons etc., at their discretion based on the data at hand, I am familiar with these practices as necessary tools of fisheries management. I was surprised when I learned a few years ago that DAR / DLNR did not have the ability to quickly address the needs of a dynamic and ever changing system. I strongly encourage you to give DLNR / DAR the power to execute their plans based on data and the scientific method of fisheries management.

However, I must continue to voice my personal disappointment over any white or black listing created that in essence will ban the collection of a species at any level. As an experimental marine fish breeder, I (and others) require access to wild specimens in order to research and develop protocols to spawn and rear the species. Since it is truly the aquarist who may represent the final failsafe for a troubled species, it is wholly inappropriate to hamstring the efforts of aquarists who may wish to attempt to propagate a species for the very first time.

Let me be clear, I am in support of bans that come about as the result of scientific management practices. When a ban is put in place by the DLNR because fishery data supports or recommends the closure of a fishery, I can certainly understand. In other words, for example, I would not endorse a fishery for an endangered species. But if a fishery can be sustainably managed, I see no reason to ban the fishery.

When a ban is put in place on the arbitrary notion that a species may or may not fair well in captivity based on someone's opinion, this is not science. We must remember that many of the marine aquarium fishes that now flourish for decades in captivity were once considered impossible to keep alive. The corals that we propagate as easily snapping a piece of coral into two, were considered doomed to failure in captivity only 2 decades prior. So too, fishes that are considered difficult or

impossible to keep alive, such as coral feeding butterflyfish, are already starting to demonstrate that with proper care, they can and will thrive in captivity. I'm personally responsible for changing the fate of the coral-feeding filefish, *Oxymonacanthus longirostris*, from "doomed" to "hopeful", and am in fact the first person to have successfully spawned and reared it in captivity. Had this fish, formerly viewed as a "cut flower" destined to wither and die in a few weeks time, been on a blacklist (or absent from a whitelist), my discoveries and contributions to both the aquarium industry and science at large would have not been possible. I cannot support bans on the collection of species when these bans are based solely on the current "impression" of aquarium suitability.

I am also troubled by the notion of species bans put in place simply to satiate the demands of a vocal minority who'd rather see a complete closure of the aquarium fishery, permanently. Not only is such a measure without scientific merit, but I do believe that such a compromise will not be seen as a compromise by the opposition to the aquarium fishery. Instead, a compromise will simply be the first "inch" in the "give an inch, they take a mile" type outcome. Throughout the US, we do not manage fisheries based on emotion, we use data, and the scientific method to make informed decisions.

Case in point, the Minnesota and Wisconsin wolf hunts – I was initially emotionally quite opposed to these hunts because I was presented with very misleading data (eg. that 6000 licenses would be issued when there were only 3000 wolves in the state?). However, once I was presented with the more complete picture, one that included the fact that only roughly 200 wolves would be harvested before the season would be closed, along with the DNR's reasoning behind the wolf hunt, my opposition to this hunt was greatly diminished. I still have reservations about some of the permitted hunting methods, but only because they cause suffering that other methods do not cause.

Anti-aquarium groups would of course, argue that the aquarium trade causes "great suffering" when in fact, I have been told that the prospects for aquarium fishes collected in Hawaii are some of the demonstrably best anywhere. From a fisheries management standpoint, what happens with the fish after it is removed from the reef is truly of no consequence to the reef, or to the fishery.

However, I'm still willing to discuss this ethical question that the opposition raises. When I put myself in the shoes of a reef fish, my choice may lie between death at the end of a spear to be sold for \$4.99 per lb at a local fish market, vs. maybe months, or years, or DECADES of life in predator free environment, having been sold for potentially \$150 to \$300. I believe most of us would chose a potentially cushy life over death, and so too, we cannot condone the harvest of reef fish to be sold for as foodfish for pennies on the dollar when compared to their value within the marine aquarium fishery. This is not to say that I condemn the food-fishing of reef fish, although I do believe that it's selective harvest of the largest, adult, reproducing population, will likely cause far more harm than the harvest of juveniles that already experience terribly high natural mortality anyways. So ultimately, I leave the fisheries management to the managers – it is DAR's role to determine if, for example, the spearfishing of the Achilles Tang should continue, and it is their role to do so based on science and an understanding of the biology of the species in question.

I urge the support of rules changes that allow DAR to manage the marine aquarium fishery both nimbly and effectively. It is time we make sure they have the tools they need to do the jobs that they are

hired to do. Being able to adjust quotas, bag limits, and catch methods in response to on-the-ground data and observations is highly necessary and I was surprised to learn that the DAR did not already have these powers.

However, I do not support the codification of bans on individual species, or the creation of laws that DAR / DLNR cannot change in a responsible manner should circumstances on the ground change. DAR can easily set very low quotas on any species it wishes to restrict based on emotional grounds or compromise; such a low quota could ensure that these species are only collected to order for people like myself who have a demonstrated need for access to the species to conduct innovative, pioneering work that could forever change the fate of the species. Perhaps this is where the “compromise” is found.

Again – I support management tools in the hands of knowledgeable managers who have a mandate to scientifically manage the aquarium fishery, but I do not support the provisions of these rules that create outright bans based on emotion, opinion, or simply the “spirit of compromise”.

Best Regards,

Matt Pedersen

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**From:** Angela  
**Sent:** Wednesday, December 05, 2012 7:33 AM  
**To:** alton.k.miyasaka@hawaii.gov; darkona@hawaiiantel.net  
**Subject:** From an Ex Aquarium store owner

To whom it may concern,  
I am writing you this letter in regard to the fish collecting practices for the purpose of the aquarium trade. I have been a fisheries professional for at least twenty years. In that time I have seen the popularity of the saltwater aquarium business skyrocket. Along with this skyrocketing comes a very ugly side however. There is no governing body that regulates or oversees the collection, handling or keeping of aquarium fish; the only restrictions being imposed at the collection sites. This has made it the wild west of industries ruled only by the dollars made. This has also led to the wiping out of natural resources that have been the major attracting point for tourism and recreational diving.

I started in the fish business by having a service business in which I would clean and care for other people=s tanks. I eventually opened my own store and then started importing fish and corals for my business. I eventually set up a coral farm to grow corals in a captive environment. I became involved in fish wholesaling and importation from all over the world. I have met with many importers, collectors and retailers and have set up several fish keeping systems for housing and shipping of fish and corals. I have now stepped away from the industry. It weighed too heavy on my conscience to continue doing business in the face of so much death. At some point, somebody needs to defend the creatures that have no defenders.

There have been many improvements in the keeping of fish but sadly most of those gains are made in the freshwater part of the trade. Somewhere around 98% of the fish in freshwater are tank raised and

only around 2% are wild caught. This ratio is almost exactly opposite in saltwater. Many of the fish in Hawaii are open water breeders and cannot reproduce in the captive environment. Hawaii also is the exclusive home to several of the most popular fish with Yellow Tangs, Achilles Tangs and Humu Triggers being among the top. You can look at ORA's website @ [orafarm.com](http://orafarm.com) to see what is being bred as they are the most renown and successful captive breeders.

Because of the lack of regulation and oversight, it is difficult to gather any data with regards to the life span of fish once they have been collected. Most stores would try to say that they maintain something less than a 30% loss for their bookkeeper's sake. The fish wholesalers would be similarly close to the same number depending on who is asking what the loss rate is. The deeper effect is that most of the patrons who have saltwater tanks will have their tank running for less than one year. Unfortunately, this doesn't fair well for the tank inhabitants. Fish are not like puppies and are not usually found good homes.

Besides the aquarium industry, fish collection has it's other devastating effects. It is an easy thing to see what happens with the removal of any species from its natural ecosystem and the after effects. Without the fish to keep and maintain the reef and all of its life, the whole system begins to fail. Right now there is a ban on coral and 'live rock' from Hawaii but the fish are easily acquired. So why ban the collection or harvesting of corals and rock if you neglect to protect the keepers of it? Fish are the natural maintenance crew of those reefs and prevent the infection of parasites and algae invasion. The latest trend in the biz is medicine that treats coral infections whether by pest or disease. Why is this? Not hard to see what happens when the fish are removed or over harvested.

In addition to disease and loss of reef life, over-collection has a more urgent and devastating effect - The loss of Eco-tourism. Right now Hawaii rates among dive locations only for it's "swim with manta rays" experience at # 7. Without this particular experience, Hawaii rates as # 48 with Fodor's Best Diving, # 47 with SCUBA Magazine and no rating in CNN Top 100 Dive Sites. I gathered this from Google's first page for best dive sights. Without the fish there are few reasons to come see the waters of Hawaii and those reasons are declining rapidly as a direct result of the lack of native fish.

The other horrible truth about fish collection is that because of the effects of over collecting, the native fish now are covered in several different diseases. The last few years any fish from Hawaii were automatically dipped for flukes and treated for Ick and checked for other infectious diseases. This never happened ten years ago and now the occurrence is now common enough to treat all Hawaiian fish as if they are infected. Now this may come as a shock but the collection practices in Hawaii are humane and do not poison the fish. However, because of the lack of the numbers of fish left to carry out natural selection process, the native fish are plagued by disease resulting in a weaken gene pool. Not much hope for the return of healthy reef in that case scenario.

Another sad but obvious truth is to follow the money. The amount of money Hawaii and it's residents brings in from tourism is a major source of income. The money actually in the fish trade is also very lucrative. The profit margins are enough to lure even those without degrees or business experience into the field.... Truly like the wild west. Sadly though, the money made from the aquarium trade is certainly not left in Hawaii. It is made by the wholesaler and retailer of those fish which are again, not in Hawaii. Even the online fish sellers now want the collector to 'dropship' the fish directly to the purchaser to avoid the unnecessary handling of fish (loss) and the cost of fish keeping systems. This

may sound like a good move but the money still leaves Hawaii and is used elsewhere. Hawaii collects a small annual fee every year for selling its birthright of natural resources. Other countries have faced these effects and have issued restrictions, bans or regulations on fish collection. Not Hawaii?

I sincerely hope the regulation and control of Hawaiian fisheries is taken seriously and not left to "someone else". This kind of pillaging cannot last forever, only until all the resources are gone. With your help, that can be a very long time in the future for Hawaii. I urge you to go and take a look at any of the unprotected areas of your islands and see for your self. It will convince you even when words will not.

Sincerely,  
Ron Gossett

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Dec. 05, 2012  
Pete Basabe:

My statement as a person, and I'm representing a couple of gentlemen that couldn't be here, Kaumanao Casuga and Teituna Faavasi [ph] from Miloli'i.

We fish out of Miloli'i. And on a daily basis as we're going down to launch our boat, different households ask us if we can get some fish, spear some fish for their house for that evening or tutu or whether they have a tutu or an uncle that needs fish. And for 25 years now we've been doing that.

We don't go out and spear coolers full of fish. We get six, eight, ten fish and drop it off at a house. When there is a luau happening or something happening at the halau, we're asked to go out and spear fish. We go out and spear fish for the village, so this has been going on for a very, very long time.

One of the things that I've noticed being involved in this process for 40 years, I was on the West Hawaii Fishery Council for a period of time, I went over to Honolulu and testified at the proposed ban on kole about two years ago. I was involved down in Miloli'i when the DAR's office, a couple people from the DAR, went down there to try and bring some rules and regulations into Miloli'i, and what's happening is the way the West Hawaii Fishery Council is set up and it's not that it's a bad thing, but it does not take into account the local fisherman. They've tried at different times to have local fisherman be on the West Hawaii Fishery Council, but they just wandered away.

We, actually, had a group of fishermen show up at one meeting and wanted to testify about the kole ban and they were told that it wasn't going to be discussed that night, and that they'd have to come back another night. They got very upset.

The way the West Hawaii Fishery Council is set up, it just hasn't taken into account the local fishermen. We very seldom ever get any word down in Miloli'i what's happening. They would have to come up and try to find out what's going on. And I think if you're going to be a representative of

stakeholders as the West Hawaii Fishery Council says it is, then you maybe need to change your program a little bit or make a bigger effort to get down and touch the local fishermen, because the way it is now they're falling through the cracks. They don't have anything exchanged back and forth.

Now, this is great because they're here. This is the first step. But what you need to do is you need to engage them to become involved in the system and ask for their opinions, ask them to be involved in making the rules. It's possible that maybe bag limits may be an answer, instead of a ban. We need some science behind what you're, actually, going to do with the spearfishermen. So if you ask them to be engaged and go forward from here, there is a good chance that maybe we can make some headway.

Thank you.

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Dec. 05, 2012

Aloha, everyone. My name is Rene Umberger. I'm from Maui.

I'd like to first address a process issue that's been going on. A public trust has been broken. Kona Division of Aquatic Resources has spoiled this public comment process by attempting to silence comments on the rules. The division has misled the public with fear tactics. This is the process. I think the public needs to know what's going on. I'm going to keep going. Everybody needs to know what this division has done. The division has misled the public with fear tactics, calling this an all or nothing, up or down, vote.

MR. TAM: Excuse me. Excuse me a second.  
In unison from the audience "let her talk.")

MR. TAM: Just a second. Just a moment. I'll let her talk in a second. For your information all the comments go to the chair's office, so everything that's submitted will go to the chairman's office, just so you understand that.

MS. UMBERGER: Thank you. The division has misled the public with fear tactics, calling this an all or nothing, up or down, vote. They have claimed that any opposition to these rules to any of the rules would kill the whole package. We cannot know how many voices have been silenced or influenced by Kona DAR's propaganda campaign. We do know that stifling dissent to influence an outcome is not a public service. It's illegal. A public comment process must be impartial to maintain public trust in the process. Both the public trust and the process are broken from official messages spreading propaganda and soliciting support for the rules. These messages were sent in e-mails from the same desk, the same e-mail address accepting public comments.

Worse, from that same e-mail address and in direct response to comments opposing the rules, messages of coercion were sent attempting to suppress, by intimidation, comments critical of aspects of the rules. This illegal activity demonstrates a failure to conduct an objective and impartial public comment process. Public comment is meant to measure public opinion without fear or coercion by a government agency. Dissent is part of the process, except in a dictatorship or communist regime. We need robust dialogue, not strong-arm tactics.

Kona DAR, essentially, said that ten years of community effort will go down the drain from critical feedback. This is a bogus claim. This is not an all or nothing, up or down vote. This is a public comment period to ensure the public's right to be heard. This is a process for making changes in a timely manner. After receiving public comments the land board decides to approve, deny, or recommend changes to the rule proposal. If changes are recommended, the revision goes to the Attorney General's office for review and response within two weeks. That's amazing. They would have two weeks to respond. The rest of that revision process could be completed and the rule made law within six months. So why the propaganda and why the coercion? The question on my mind is why did Kona -- what did Kona DAR gain or hope to gain from these actions?

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From: Jim Whillock  
Sent: Thursday, November 15, 2012 10:14 AM  
To: darkona@hawaiiantel.net  
Subject: Fish Collection

As a diver with an Assistant Scuba Instructor Certification who has been diving the leeward waters of the Big Island for some 30 years, I am completely baffled by the claim that Bill Walsh makes regarding the situation with our reef fish population. I am further baffled that DLNR relies entirely on him as the expert in this matter. His expert opinion is disputed by many dive operator, scuba diver, snorkel operator, returning snorkeler, and "watermen/waterwomen" on the island.

During my 30 years of diving these waters I have watched our fish population, especially of the so called "fish of charismatic value", as Mr. Walsh calls them, decline significantly. All you need is a set of eyes to see this happening.

I dive the waters all over the world, including many areas that might be considered third world or emerging countries. Almost without exception, the Philippines being an exception, divers are forbidden from taking anything, including shells, from the water. Collecting for profit is unheard of. The quality of the reefs and the fish populations in these areas are amazing! Are we less intelligent than the authorities in these countries? They see the value in ensuring that their reefs are protected, yet we deny that we have a problem

I spent 35 years in the travel and tourism business, with Hawaii being a large part of my annual sales. My wife and I owned, as part of our business, an Internet based scuba travel business. Hawaii represented a very small part of that side of our business mix as experienced divers did

not see the value of diving reefs with such poor fish populations, except for the manta ray night dives.

I spoke with candidate Abercrombie twice about the serious issue of allowing a small minority of the population to place an important part of our ocean based tourism at such risk. He promised me that he would look into it. If we do not care about the health of our reef system, we should look at this from a purely financial perspective. The State of Hawaii earns under \$300,000 per year from collectors, as I understand it. How much does the State earn from taxes paid annually by the scuba and snorkel companies? It must be in the millions of dollars.

I implore you to look beyond the denials of one expert, exercise sound judgement and common sense, and put a stop to the stripping of our reefs for mere pennies. These fish collectors will work themselves into unemployment in time, so we should help them find another income source that does not harm the rest of us.

I am more than willing to discuss this further.

Jim Whillock

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**Sent:** Monday, December 03, 2012 7:40 PM  
**To:** darkona@hawaiiintel.net  
**Subject:** Urgent-Hearing and Support

I HAVE ALSO ATTACHED, BUT IN CASE CANNOT OPEN, POSTED BELOW. MAHALO

To Whom It May Concern:

**RE: PUBLIC SUPPORT HEARING ON REEF FISH**

I am a local girl born and raised, and I have been to most beaches on the Big Island. Fifty years ago reef fish were plentiful, and they were everywhere. Now, I rarely see the beautiful angelfish, parrot fish, and other Hawaiian species, that were once thriving on our coral reefs. I wanted to propose some ideas at the hearing, but unfortunately I will not be able to attend, but want you to submit on my behalf. First of all, whatever the outcome of the hearing in reference to permits, bans on spearfishing, no-collecting zones etc., the critical issues are:

- “How do we monitor how many fish are taken?”**
- “Who holds collectors responsible, when they disobey the rules and regulations?”**
- “Who makes sure that no-collecting spots are monitored, and who to report to?”**
- “What equipment and process, is required to properly collect species?”**

With this in mind, the above issues should be proposed and discussed. For example, if a permit is issued for collecting reef fish. What is the protocol on how many days, and what species can be taken? How many hours are allotted for collecting? In reference to equipment used, some collectors use vacuum systems. With this system, they can take out an alarming rate of reef fish. With no time limits, and no one monitoring equipment used, this is a very serious issue. Also, West Hawaii Today reported a story not too long ago, regarding two commercial trash receptacles found with hundreds of dead reef fish. Again, illegal collecting, and improper process and transportation, has happened.

Propose to utilize volunteers, that can sign up via an email blast, or with ads in the WHT, that list dates, times, and locations of the collection permits and how to sign up. Volunteers will be the monitor's on-hand at these

locations, to keep a tally sheet of what species, and how many species were taken. Also, if they disobey rules, or take protected species, this can be reported to DLNR for immediate action. Our entire State of Hawaii is concerned about this issue, and there are more than enough caring individuals ready to donate their time to help.

We have to monitor what is going on in our ocean. DLNR and other agencies are doing the best they can, but we all need to "Malama" (care for, preserve) our ocean, and protect our Hawaiian reef fish, so they can be here for generations to come.

Thank you for your consideration, and best of luck. Your caring and support makes a difference.

Mahalo Leilani Pacheco-Datta

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From: Kona Business Center  
Sent: Monday, November 26, 2012 12:01 PM  
To: darkona@hawaiiantel.net  
Subject: testimony from Alice Goo

## TO LOVE OUR REEFFISH

I've been a Scuba diver since Cousteau first introduced scuba diving. Prior to the invention of Scuba, we did skin diving and only took enough edible fish for food. I'm against commercial scuba spearfishing and aquarium fish collecting for the following reasons:

1. In all the arguments, no one mentioned the damages the collectors do to the coral. Each time they lay a long line of nets, the nets get tangled in the coral. When retrieving the entangled nets the coral is damaged and some are pulled off the seabed and stepped on. The anchor also damages the coral.
2. In Honolulu a fish collection sent reef fish to NYC and after 2 weeks was told a lot of fish were Doa. Most of the fish did not survive more than a month due to the improper care of salinity, PH imbalance, unnatural food etc.
3. I'm also against collecting KOLE & PAKUIKUI fish. In the past these fish were reserved for the Alii and were for eating not collecting.
4. Some years ago a UH Professor published a scientific study of Ocean currents movements that circulate clockwise expanding from Kawaihae to South Point outwards to 4 or 5 miles. At this particular event all the reef fish spawned. The eggs hatched in the deep waters and the juveniles recirculated back toward Kawaihae reef and towards South Point. On their return to the reef thousands were consumed by predators, a balancing act of nature. The fish collectors are causing some imbalance and destroying the corals. As a fisherman before the aquarium collectors from the US started we had a bountiful catch of Aku, today ZIP.
5. The Hawaiians had a KAPU system, the aquarium collectors all come from the mainland (no locals). They have no respect for the reef. In collecting reef fish many by catch are also destroyed.

For the dive shops that are against collecting I would recommend they monitor the collectors, how they trap fish and the damage they do to the coral. The white list that limits collection to 40 species is ridiculous compared to the damage of the coral.

Ask DNRL Aila who collected tropicalfish if he didn't see damage to coral.

P.S. Sorry I can't attend the meeting. No Name due to bad blood confrontation.

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From: Earthjustice [mailto:action@earthjustice.org] On Behalf Of Isaac Harp  
Sent: Monday, December 03, 2012 10:24 AM  
To: darkona@hawaiiantel.net  
Subject: Re: Comments on DLNR's Proposed Aquarium Collection Rules

Dec 3, 2012

Hawai`i DLNR Division of Aquatic Resources (Kona Office) 74-380B Kealakehe Parkway  
Kailua-Kona, HI 96740

Dear Division of Aquatic Resources (Kona Office),

Aloha DLNR DAR:

As you know, all fish have a role in maintaining healthy reef ecosystems, but prohibiting extraction is NOT what I am proposing.  
Please read on.

I propose that the DLNR support community-based management of Hawaii's coastal waters and marine resources. These are community resources that were once managed under an ahupua'a konohiki management system.

The konohiki system worked because management was based on simple observations of marine habitats and resources in a very specific areas.

The current blanket approach with the same regulations covering broad areas, that may vary greatly from place to place, has proven ineffective.

The konohiki system worked because the community could easily replace the konohiki if his/her performance as a resource manager was not up to the expectations of the community. Empowering communities this way provides a sense of ownership and with it kuleana/responsibility.

Sense of ownership creates peer pressure. Peer pressure is one of the greatest enforcement tools available. Who better to watch over an area's resources than the people who live there?

In order for us to evolve back to what worked in Hawaii, DAR staff would need to work with konohiki. Much traditional knowledge such as breeding seasons has been lost, but this can be

addressed by what science has discovered in modern times. DAR working with communities for the benefit of the whole would be a tremendous improvement over the status quo.

Finally, for those individuals with an interest in selling fish for aquariums, the best approach that I can suggest is to move into aquaculture where their product is hatched and raised in a captive environment. This approach would minimize trauma to the product compared to the current practice of taking fish from the wild and placing them in a captive environment for the rest of their life. This is simply cruel.

Put yourself in the wild fishes' position for a moment and you may realize how traumatic an experience they go through. When taken as food the fish are usually killed immediately. This is more humane than a life in captivity.

Mahalo for considering my mana'o.

Sincerely,

Isaac Harp

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From: Kathryn Reynolds  
Sent: Thursday, November 29, 2012 9:10 AM  
To: darkona@hawaiiantel.net  
Subject: proposed collection rules

I find it difficult to believe that the private business of Aquarium collection takes precedent over the well being of our reefs. Our reefs which are living ecosystems that support our well being in so many ways. Tourists love our island because it is not yet totally destroyed by businesses who make their money by taking away the natural beauty of the natural vistas, the wildlife and the history.

We were walking along Waikiki beach this past weekend. My partner, who lived there many years, was surprised and so happy just to see 10 large humuhmunukunukuapua'a along with 3 bonefish swimming near the shore. He said that the mile of shoreline protected fish area has helped to make that sighting possible. The number of fish and sizes are still not even close at all to being on their way to what it used to be, but little by little it is helping. Protection helps. Protection is needed. I have lived here in Kailua Kona 23 years. I never see schools of trigger fish along the coast like I used to. I have worked in the tourist industry the entire time and can tell you that barren waters and stolen vistas are real threats to the draw of visitors and the well being of those who live here.

No one wants it to end up that you can see more fish in an Aquarium on the mainland or anywhere else than you can see along our Hawaiian coasts.

Kathryn Reynolds

From: Sylvia  
Sent: Sunday, November 18, 2012 8:44 AM  
To: darkona@hawaiiantel.net  
Subject: Fish Collecting

My first experience scuba diving in Hawaii was in 1980. It was like diving in an aquarium. The dramatic decline in the fish populations since that time is appalling. I remember when Kona was the Gold Coast because there were so many yellow Tang the water looked gold!

While I know the entire decline cannot be laid at the feet of the fish collectors, the numbers of certain fish varieties has certainly declined in direct correlation with the number of fish collecting permits that have been issued. To think that twice as many fish are taken from our islands as are taken from the Great Barrier Reef is a frightening indication of the massive amounts of our beautiful fish that are being wasted.

As a resident and avid diver I have seen the scarcity of certain fish that used to be abundant, and the almost complete disappearance of the more rare species. To see a Tinker butterfly, Banded Angel or Long-fin Anthias has gone from infrequent to impossible, yet they are on the "white list".

Only you can change this! Please at least try a moratorium on fish collecting, let's see what happens to the fish population. Please take the steps to save our valuable resources. It's almost too late now!

Aloha, Sylvia Owens

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**From:** Darcy May  
**Sent:** Sunday, November 18, 2012 7:42 AM  
**To:** darkona@hawaiiantel.net  
**Subject:** Aquarium fish collecting testimony

To: DLNR fisheries management  
To Whom it may concern,

Fish collecting should be banned from the Big Island as well as for the entire state of Hawaii. Violators should have steep fines and penalties.

The tropical fish population has declined over the 8 years I've been a full-time resident here and scuba diver. I frequent the dive sites all up and down the Kona coast by boat and also from the shoreline. It's alarming to me that the DLNR would even allow ANY tropical fish species collected on a commercial basis, let alone 40 species allowed for the take. Please don't allow this as people from all over the world come to Hawaii to see our beautiful fishes here as well as Hawaiian residents. Please consider penalties and enforcement laws similar to Washington State. That's the only way to get the excessive taking of tropical fish to stop and preserve our precious tropical fish for future generations. If you don't take measures to preserve and protect the creatures of the ocean then who will?

Thank you,

Darcy May, Kailua-Kona

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December 4, 2012

Dept. of Land and Natural Resources  
Division of Aquatic Resources  
1151 Punchbowl Street, Room 330  
Honolulu, Hawaii 96813

**RE: Repeal of HAR, TITLE 13-60.3, TO ADOPT A NEW CHAPTER 13-60.4-7(B).  
The “WHITE LIST” and Bag Limits.**

Dear Sir:

Thank you for the opportunity to participate in this public process. My name is Ms. Jojo Tanimoto and I live in Kawaihae on Hawaiian Home Lands. I thank you for all the work to update the rules to protect the near shore fish species.

However:

1. First, I was made aware that the procedures for this public hearing is incorrect. There was no signature on the presentation and nothing said about forwarding the agenda to the AG for approval. Perhaps you will consider holding this meeting at a later date and get the procedure correct.
2. This “White List” should include all the near shore fish species that are favorite food species. This list needs to include: Akule, Kala, Maiko, Manini, O’io, Opelu, Palani, Paka, Uhu, Uku, etc. Also, “Bag Limits” should delete Kole and Pakuku’i, at least until the need for any moratoriums and “no take” programs or instituted.

Thank you for the opportunity to provide these comments.

Sincerely,

Jojo Tanimoto

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**From:** phil hayward  
**Sent:** Monday, December 10, 2012 4:24 PM  
**To:** darkona@hawaiiantel.net  
**Subject:** 13-60.4 etc. testimony

Aloha, as a Puako resident and wildlife biologist and resource manager, I hereby testify in relation to the proposed changes to the 13-60.4: The likely overfishing issue with spearfishing is not as much with scuba, but night-time free-diving spear fishing abuse. There is almost zero monitoring of night-time fishing activity and teams of free-divers fish our reef areas ( especially the drop-off with plenty fish hiding/sleeping places) at night with floating coolers which are filled with fish- who knows if size and

numbers taken are within regulation ( and no regulations exist to protect the larger breedstock). Also, areas of "no-take" for breedstock and grwo-out are slow in comijng to the proportion of the reef as outlined in previous legislation. On Chapter 13-54, Puako boundary for aquarium fishing should be extended to 1/5 mile to effectively eliminate this taking from the area from the Puako boat ramp to the FRA boundary at the Paniau/Orchid line. Thank you for your consideration, Phil Hayward

Philip Hayward, S Kohala Oceanfront Research and Education  
LLC [www.skorellc.org](http://www.skorellc.org) Working Together as Stewards of this Unique Hawaiian  
Coastline

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**From:** Ruthie Charter  
**Sent:** Saturday, November 17, 2012 4:00 PM  
**To:** darkona@hawaiiantel.net  
**Subject:** STOP collecting aquarium Fish !!!!

It doesn't take a rocket scientist or any more "scientific studies" to figure out that if the fish are being taken from the ocean in such large numbers and for such a long time that we will soon enough have no more fish !!! DUH !!!!!

A friend of mine that moved here about a decade ago was telling us that back then the waves were just filled with Yellow Tang, for one, in the shore break. Now you can see maybe 4 or 5 !!! Your job is STEWARDSHIP of our waters, fish and reefs!!! Time to do your job without any excuses!! Stop the over collecting of our aquarium fish!! Surely you won't wait until we have such low numbers of them that they are in danger of being lost for all of us!! Use common sense, for God's sake!!

R. Charter  
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Dec. 05, 2012

MR. TAM: April Sutton.

Thank you guys for coming out here tonight. It's amazing to see so many people here.

I've been to a few of these meetings where it's like just the library. It's cool that we're taking over this whole area. I'm going to be really brief because I know a lot of us have been here all night.

I don't think we can be sustainable by still collecting fish. We just need to make our entire coastline a marine protected area and stop collecting.

I don't think that having anything collectable is going to be good for us. If we can sell a yellow tang for 39.95 to somebody on the mainland, what good does that do us here, yeah, so thanks.  
~~~~~

**From:** Pi'i Laeha  
**Sent:** Wednesday, December 19, 2012 2:48 PM  
**To:** darkona@hawaiiantel.net  
**Subject:** WHRFMA testimony  
Aloha,

Thank you WHRFMA for your time and energies in managing our marine resources. My thought on your recent proposal is that you have placed too many rules/ amendments/ policies in one Chapter. I agree with some, disagree with others. Is this an all-or-nothing situation? This may be a standard practice in politics but I would like to see that each issue is addressed individually.

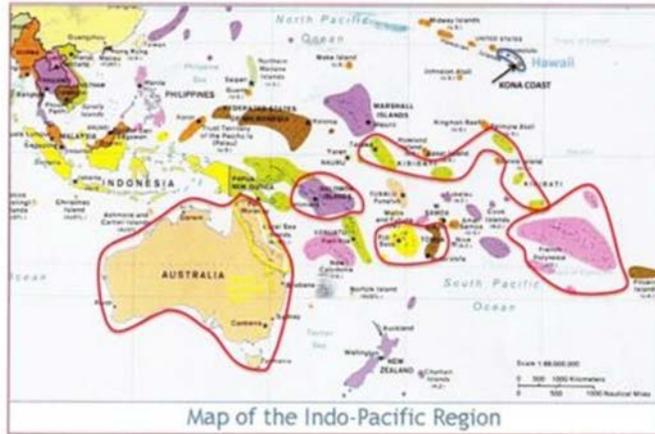
Where does education fit in these restrictions? What allocations and exemptions will be given to educational / cultural programs?

Culturally, there should be some easy access areas with calm shoreline waters where we can teach our youth gathering and hunting skills. We need some of these places to practice and teach our culture.

Mahalo for your attention,  
Pi'i Laeha

~~~~~  
**From:** Mike Maddux  
**Sent:** Sunday, December 02, 2012 6:07 PM  
**To:** darkona@hawaiiantel.net  
**Subject:** fish kidnapping

Aloha,  
I am 100% is support of a ban on all commercial exploitation of the reef fishery.  
I would allow the current rules for resident's home aquaria to stand.  
In 1960 I could sit waiting for waves off Waikiki and watch the fish nibble at my toes...  
I think that a commercial license would be a great front for another source of income... and not pot. Great cover for laundering money.  
But that's just me.  
I live in Hawi and most meetings are too far, but please include me in your efforts.  
Thank you,  
Mike Maddux



More fish are annually taken from Hawaii's reefs for U.S. saltwater aquariums than are imported from the reefs of Australia, Solomon Islands, Fiji, Tonga, French Polynesia and Kiribati, combined.

Name: Caren Hashida  
 City: Captain Cook  
 State: Hawaii

Dear Governor Abercrombie and Hawaii State Legislators:

I support ending Hawaii's aquarium trade because:

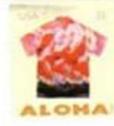
It depletes our reefs which need these fish and support our families.

It conflicts with cultural values and the values we teach our keiki.

Our wildlife suffers and dies needlessly.

Mahalo, 

NOV 15 2012  
 15 PM 2012



Dept. of Land & Natural Resources  
 Division of Aquatic Resources  
 74-381 Kealahou Pkwy.  
 Kailua-Kona, HI 96740

| Name                | Date       | Address                  |
|---------------------|------------|--------------------------|
| Angelito dePadua    | 12/10/2012 | Walnut Creek, CA         |
| Cheryl Becker       | 12/10/2012 | Campbell, CA             |
| Jon Lucker          | 12/10/2012 | Portland, OR             |
| Bill Beckir         | 12/10/2012 | San Jose, CA             |
| Emmeline Katsarelis | 12/10/2012 | Dublin, CA               |
| Denis Simoneau      | 12/10/2012 | St. Isidore, Alberta Can |
| Genevieve T         | 12/10/2012 | Alameda, CA              |
| Tracy Simoneau      | 12/10/2012 | Alberta, Can             |
| Jo Wallach          | 12/10/2012 | Kapa'u, HI               |
| Rebecca Jetzer      | 12/10/2012 | Kailua-Kona, HI          |
| Jim Johnson         | 12/15/2012 | Littleton, CA 80124      |
| Baris Ergin         | 12/13/2012 | New York, NY             |
| Ray Bolger          | 12/13/2012 | Alberta, Can             |
| Nellie Dickson      | 12/13/2012 | Burkett, TX              |
| Linda Carstens      | 12/13/2012 | Phoenix, AZ              |
| Dana Sausedd        | 12/13/2012 | Phoenix, AZ              |

|                   |            |  |                         |
|-------------------|------------|--|-------------------------|
| Vicky Hsu         | 12/13/2012 |  | Seattle, WA             |
| Linda Fischer     | 12/13/2012 |  | Dallas, TX              |
| Mavis Rose        | 12/13/2012 |  | NSW, Australia          |
| Nancy Harkaker    | 12/13/2012 |  | Davis, CA               |
| Randy Arnold      | 12/13/2012 |  | Santa Monica, CA        |
| Pamela Arnold     | 12/15/2012 |  | Santa Monica, CA 93454  |
| Ireen Law-Noonan  | 12/15/2012 |  | Brampton, Ontario, Can  |
| Michele Jetzer    | 12/15/2012 |  | Las Vegas, NV           |
| Gail Hielsher     | 12/15/2012 |  | Holyoke, CO             |
| Marshella Burton  | 12/15/2012 |  | Alexandria, VA          |
| Nancy Kluss       | 12/15/2012 |  | Beaverton, OR 97007     |
| Dawn Carlozzi     | 12/15/2012 |  | Centerville, WA         |
| Diane Jetzer      | 12/15/2012 |  | Madison, WI             |
| Dennis Jetzer     | 12/15/2012 |  | Madison, WI             |
| J. Yanamoto       | 12/15/2012 |  | Honolulu, HI            |
| Susan Yamasaki    | 12/15/2012 |  | Laguna Harbor, CA       |
| Lynn Boyanovsky   | 12/15/2012 |  | Portland, OR            |
| Sandy Muhlhausen  | 12/15/2012 |  | Santa Rosa, CA          |
| Kathy Carlozzi    | 12/15/2012 |  | Hilton Head, SC         |
| Olga Libova       | 12/15/2012 |  | Mt. View, CA 94044      |
| Kelly Stedry      | 12/15/2012 |  | Ronnut Park, CA         |
| Nuva Nickelson    | 12/15/2012 |  | Burkburnell, TX         |
| Richard Hirlschen | 12/15/2012 |  | Holyoke, CA             |
| Gary Abramy       | 12/15/2012 |  | Port Angeles, WA        |
| K. Miasukawa      | 12/15/2012 |  | Kailua-Kona, HI         |
| David Kleiner     | 12/15/2012 |  | Mountain View, CA 94040 |
| Drik Shimizu      | 12/15/2012 |  | Honolulu, HI            |
| Diane Johnson     | 12/15/2012 |  | Littleton, CA           |
| Karol Sarratt     | 12/15/2012 |  | Victorville, CA 92395   |
| Diana Oharriet    | 12/15/2012 |  | Victorville, CA 92395   |
| Alison Carlozzi   | 12/15/2012 |  | Ranson, WV              |
| Oalem Gul         | 12/15/2012 |  | Brooklyn, NY            |
| Tami Kawamoto     | 12/15/2012 |  | Rodeo, CA 94578         |
| Gwen Hashida      | 12/15/2012 |  | Captain Cook, HI        |

~~~~~

**From:** Terra  
**Sent:** Wednesday, December 05, 2012 1:18 PM  
**To:** darkona@hawaiiantel.net  
**Subject:** fish collected

I don't feel that ANY FISH should be collected for Aquariums period..... We should give to the Ocean NOT TAKE Man has done too much harm already and has not appreciated what the Ocean does for us EVERY day of our lives.... Terra Luckey...

~~~~~

**From:** Rhodie.F.Masusako@hawaii.gov [mailto:Rhodie.F.Masusako@hawaii.gov] **On Behalf Of**  
Dlnr.Aquatics@hawaii.gov  
**Sent:** Tuesday, November 27, 2012 5:54 AM  
**To:** darkona@hawaiiantel.net  
**Subject:** Fw: Kona Spearfishing and collecting limits

**Benjamin Glick**

To "[DLNR.aquatics@hawaii.gov](mailto:DLNR.aquatics@hawaii.gov)" <[DLNR.aquatics@hawaii.gov](mailto:DLNR.aquatics@hawaii.gov)>

cc

11/27/2012 03:32 AM

Subject Kona Spearfishing and collecting limits

DNR, I have been diving on and off for 30 years in Kona. Over this time I have seen an incredible reduction in marine life to where it is no longer worth diving this area. Please give the reef life here a chance to rebuild. This is worth big money to the area if reef life is present. I consider fish collectors a menace to the economy of The Kona area. Respectfully submitted, Ben Glick MD  
~~~~~

**From:** Clear Englebert  
**Sent:** Thursday, November 22, 2012 3:49 PM  
**To:** darkona@hawaiiantel.net  
**Subject:** Collecting aquarium fish

I support a **complete ban** on collecting aquarium fish in Hawaii, and especially in the waters around Hawaii Island. People come here because the waters are rich with life. To deplete that for the profit of a few people is short-sighted and the essence of greed.  
Thank you,  
Clear Englebert  
~~~~~

**Sent:** Saturday, December 01, 2012 8:22 AM  
**To:** darkona@hawaiiantel.net  
**Subject:** West Hawaii Regional Fishery Management Area

Aloha, I, Karen Guerreiro & husband Robert Guerreiro support a West Hawaii Regional Fishery Management Area. When we moved to Kona in 1997, there were yellow tang everywhere. They are now abundantly missing. Hopefully with good management they will survive & multiply.  
Respectfully yours  
Robert & Karen Guerreiro  
~~~~~

**From:** Susan Kromer  
**Sent:** Friday, December 14, 2012 5:11 PM  
**To:** darkona@hawaiiantel.net  
**Subject:** In support of WHRFMA Amendments

I am from Oahu and have made several trips to Kona to experience the beauty of the Mantas. I

am in full support of the WHRFMA Amendments which are being proposed to protect the mantas.

Mahalo,  
Susan Kromer

~~~~~  
**From:** Shane and Johanna  
**Sent:** Tuesday, December 04, 2012 7:47 PM  
**To:** darkona@hawaiiintel.net  
**Subject:** Ka'ohe Bay

I own 5 acres above Kona Paradise and do not want commercial tropical fish collectors to be able to collect in the Bay... Please make note of my opinion in this matter .... Thank you ... Johanna Brown

~~~~~  
**From:** Nancy Bauer  
**Sent:** Monday, December 03, 2012 3:45 PM  
**To:** darkona@hawaiiintel.net  
**Subject:** reef fish

WE KNOW THAT WE NEED TIGHTER CONTROLS ON THE COLLECTION OF REEF FISH BY AQUARIUM SUPPLIERS. PLEASE DO WHAT IS NECESSARY TO

CURB THE INAPPROPRIATE USE OF HAWAIIAN REEF ENVIRONMENTS.

SINCERELY,

NANCY BAUER,

~~~~~  
**From:** Debra Wright  
**Sent:** Sunday, December 16, 2012 10:05 AM  
**To:** darkona@hawaiiintel.net  
**Subject:** Protect the Mantas & full support for WHRFMA amendement

I live on Oahu & have made 5 dives off Kona to see the wonderous Mantas. Please protect them and pass the WHRFMA amendent.  
Debra H. Wright

~~~~~  
**From:** Kappes  
**Sent:** Saturday, November 17, 2012 11:31 AM  
**To:** DARKona@hawaiiintel.net  
**Subject:** Aquarium fish collecting testimony

We oppose collecting of ANY aquarium fish.

Nancy & Jeff Choy-Hee