

Marine and Coastal Zone Advocacy Council (MACZAC)
Ke Kahu O Na Kumu Wai

September 25, 2009
12:30 pm – 4:30 pm
Sheraton Waikiki Hotel, Ewa Conference Room
2255 Kalakaua Avenue, Honolulu, HI 96815

MINUTES

ATTENDANCE

- Members Present: Donna Brown, James Coon, Michael Gleason, Makaala Kaaumoana, Henry Lau, Rhoda Makanani Libre, Walter Ritte, Sue Sakai, Kanoa Withington, Donna Wong
- Members Absent: Robin Kaye
- OP/CZM Staff Present: Melissa Iwamoto, Shichao Li, Abbey Mayer, Marnie Meyer, Douglas Tom
- Others Present: Faith Caplan (public), Steve Frano (NOAA-OCRM), Jeff Hunt (County of Maui Planning Department), Brian Hunter (DOH Clean Water Branch), George Krasnick (public), Loretta Ritte (public), Mark Roy (public), Jessica Stabile (MACZAC), Jonathon Starr (Maui Planning Commission), Ron Terry (public)

DISTRIBUTED MATERIAL

- Meeting Agenda for September 25, 2009
- Minutes from August 7, 2009 Meeting (draft)
- MACZAC letter to Abbey Mayer, Office of Planning (8/16/09)
- Hawaii CZM Report for September 22, 2009
- MACZAC testimony to Hawaii Legislature regarding impact of DBEDT layoffs on OP-CZM
- Ocean Tourism Coalition testimony to Hawaii Legislature regarding impact of DBEDT layoffs on CZM
- Douglas S.Y. Tom's testimony regarding impact of DBEDT layoffs on OP-CZM
- NOAA-OCRM letter to DBEDT regarding possible layoffs of Hawaii CZM staff (9/1/09)
- RCUH Agreement for MACZAC Administrative Services (9/22/09 update)
- Hawaii CZM Program – Staff Contacts
- Interagency Ocean Policy Task Force: Public Meetings
- Obama Administration Officials Release Interagency Ocean Policy Task Force Interim Report
- DLNR Sets Presentations on Fisheries Data, Followed by Information Meetings to Discuss Possible Regulations for Certain Marine Fish
- “Scientists Fight for Lab’s Future”
- “Fantastic Voyage”

- “City Council Advances Oahu Shark Tour Ban”
- “Trash Creates ‘Plastic Soup’”
- “Something Needs to be Done About Pollution”
- “Kealia Boardwalk is Open – Finally”
- “Liu Blasted Over Layoffs”

Call to Order

Chair Donna Brown called the meeting to order at 12:50 a.m.

Discussion of the Impact on OP and the Hawaii CZM Program of the State’s Budget Crisis

OP Director Abbey Mayer informed the MACZAC members that DBEDT director Ted Liu instructed him to eliminate 7 permanent civil service staff positions within OP as part of the State’s Reduction-in-Force (RIF) process. From OP’s total of 27 staff positions, Abbey selected to eliminate 4 professional planners (1 CZM Program Manager, 2 planners from land use, and 1 planner from special plans) and 3 administrative support staff (1 secretary, 1 clerk stenographer, and 1 account clerk – a position which had already been vacant anyway). Thus, Ted Liu had given Abbey the number of positions to be eliminated, Abbey made the recommendation of which specific positions to eliminate, and Ted did not alter Abbey’s recommendation. Abbey further noted that it is also possible that additional OP staff will subsequently get bumped by other staff who received layoff notices, a process that is currently occurring. Although these are painful cuts, OP needs to retain the staff who can help the office’s programs maintain their statutory duties and that is why the particular selections were made.

MACZAC member Donna Wong asked Abbey how the elimination of the Hawaii CZP Program Manager position will affect the Program’s federal CZM requirements and its ability to meet those responsibilities set forth in the national CZM Act. Abbey noted that NOAA-OCRM had sent Ted Liu a letter of concern regarding the elimination of the CZM Program Manager position and how that will affect the leadership of the Program (and reminding DBEDT that NOAA annually provides the Hawaii CZM Program with over \$2 million in federal CZM grants funds which are matched by the State on a one-to-one basis). Despite this expressed concern, it is Abbey’s understanding that the elimination of the Hawaii CZM Program Manager position does not in and of itself jeopardize Hawaii’s Program certification approval. One key issue, however, is a potential reduction in federal funds since the Program Manger position provided part of the State match. To compensate for this shortfall, Abbey indicated that he and Mary Lou Kobayashi, OP Planning Program Administrator, will increase their time designated towards the CZM Program. When asked what percentage of his time is currently designated towards CZM in terms of the match, Abbey was uncertain but stated that is will have to increase in the future once the layoffs occur. Member Walter Ritte stated that maintaining the federal funding is vital since that is what has always kept the Hawaii CZM Program going. OP must make sure that the match is indeed met, and it must not let the federal funding dry up like the State funding has.

Reminding Abbey that MACZAC had long ago requested a copy of the Hawaii CZM Program budget for the past two fiscal years as well as an elucidation of his future vision for the CZM Program, but was belatedly given the budget only, member Donna Wong again asked Abbey what his vision for the Hawaii CZM Program is, since it appears that the Program will be coming under his leadership upon the departure of the CZM Program Manager. Abbey noted that there remains an extreme level of uncertainty in all of this since it may still be possible for the State to strike a deal with the unions and there also may be

another (second) round of layoffs coming. Thus, it is difficult to do forecasts since the office does not know the number of staff that will ultimately remain, who precisely will be left, and what work will have to be done. In the meantime, OP will remain in a holding pattern until it knows more. OP is just trying to maintain the status quo for now. Donna Wong reiterated that her question was aiming to identify what Abbey's vision was rather than his implementation plan. Abbey responded that his vision is simply to follow the CZM Act. Abbey said that he does not anticipate too much change, although there will be more work done on climate change issues. Abbey also assured MACZAC that he will follow the same guidance as the CZM Program Manager. Abbey only has one year and a few months left as the OP director and will be gone once a new administration comes to power, so he does not plan on making any major changes in that time. MACZAC chair Donna Brown followed up by asking Abbey with the CZM Program Manager soon gone, and with Abbey only around for another year, who will lead the CZM Program after that. Where will the continuity come from? Abbey responded that it is difficult to plan for that now since people can't be trained for positions since OP is not in control of the hiring process.

MACZAC member Sue Sakai mentioned that MACZAC recently testified before the State Legislature on the DBEDT layoffs. MACZAC wanted to be very supportive of OP and the Hawaii CZM Program. Some other directors admitted that it would be impossible for their departments to be able to handle the work load and maintain the current level of public service given the upcoming layoffs. However, when Ted Liu denied that this would occur within DBEDT, even the legislators did not believe him. Ted mentioned that generalists will be retained so as to replace specialists. Sue emphasized the fact that OP is the only government agency that has a cross-sectoral kuleana and the only office that can do integrated planning. OP is an extremely important office. MACZAC wants to help and be supportive of OP and especially the CZM Program but only if they are told the truth and the whole story. Abbey replied that there is no way that OP can continue to do everything that it has been if the staff cuts go through. Too many positions will be lost. This is a difficult process for OP to have to endure but that is the case for all State offices. Member Jim Coon opined that the elimination of the CZM Program Manager position is a huge loss for OP and puts the entire CZM Program at risk. By laying off CZM Program Manager Doug Tom, who has been with the Program 30+ years, there will be a major loss of brain power, expertise and institutional knowledge. Jim expressed real concerns for the future of the Program with the loss of Doug as well as other key staff that are being lost through the bumping process. It is at a time like this more than ever that the Program will need competent leadership. What is happening is very disappointing and discouraging. MACZAC will try and help fill the void, but they can only do so much in their capacity as volunteers. For instance, what will happen to the ORMP? Who will keep that valuable collaborative process going?

Member Makaala Kaaumoana noted that the counties are really hurting right now financially as well and meeting the match will be difficult. Member Walter Ritte asked what the impact will be on the SMA permit process since it is the SMA that community members are typically concerned about. CZM Program Manager Doug Tom noted that there will likely not be sufficient time and resources to designate towards SMA so there will be an impact. CZM Planner Shichao Li explained that each county has jurisdiction over its SMA and so the counties need to make sure that they keep their SMA staff. They are very busy because SMA issues always are combined with land use policy in Hawaii, and it's always a hot topic.

Approval of the August 7, 2009 Meeting Minutes

Minutes were unanimously approved.

Hawaii CZM Program Report

See attached.

MACZAC members took this opportunity to thank Hawaii CZM Program Manager Doug Tom for his three decades of service to the Program and for his vision and guidance. Doug was acknowledged as being invaluable to Hawaii and to MACZAC. Because MACZAC members were concerned about the continuity of leadership within the CZM Program upon Doug's departure, member Mike Gleason suggested that Doug write down his vision for the Program to pass along to Abbey. If the vision is documented and made explicit, it will be easier to follow. All MACZAC members concurred with the suggestion.

Hawaii Ocean Resources Management Plan (ORMP) & Community-Based Resource Management

Marnie Meyer, Hawaii CZM Planner, gave an update on the recent ORMP Working Group meetings. The ORMP Working Group has previously formed four caucus breakout groups (climate change, community outreach, policy/legislation, watersheds). Marnie announced that the ORMP Working Group's climate change caucus has finally completed the report "A Framework for Climate Change Adaptation in Hawaii". Those that contributed to drafting the Framework believe that their efforts paid off and that they have produced a high quality product. Hardcopies were passed around for everyone to look though and Marnie will follow up by emailing the document to the MACZAC members. Marnie also reported that the watersheds caucus is planning its integrated watershed quarterly meetings to bring together a range of watershed management agencies and organizations to improve coordination ("watershed summits"). The group has not yet scheduled its first summit but will do so soon after the members establish how the meetings should be organized, who should be invited, and what the objectives are.

Melissa Iwamoto, Hawaii CZM Planner, announced that there will be a big color spread about the ORMP coming out in the Honolulu Advertiser this coming Sunday (9/27/09) as part of its "Man, Land and Sea" series. Hawaii CZM staff and the ORMP Working Group community outreach caucus put together the spread, which looks very nice and should help to publicize the ORMP to a wider audience. A similar text only version will appear in the Honolulu Star-Bulletin on Sunday (9/27/09) as well. The idea was proposed that a copy of the Honolulu Advertiser spread be included as an attachment to written testimony submitted to the national Ocean Policy Task Force. Melissa also gave an update on the selection process of the ORMP implementation projects. Because all of the project proposals were quite good, OP and CZM have worked to fund as many as possible. The top project proposal has already been approved by OP, and so DBEDT is now drafting a contract. Based on their high rankings provided by the Project Evaluation Committee, the second and third ranked projects will also be approved since they requested only small amounts of funding and deal with coastal nonpoint source pollution control (an area that CZM had extra monies available for due to the typical dearth of such projects). These two projects still need to be notified that their proposals are approved, so sharing more information about them will have to wait until after that. In addition, there has been no movement with the legal framework RFP yet because OP has been waiting for months to hear back from DBEDT before it can communicate with the project about their proposal.

RCUH-OP Agreement Update and MACZAC Budget Status

MACZAC Budget Proposal

Jessica Stabile, MACZAC Project Assistant, explained to the group that MACZAC's agreement with RCUH had been extended until December 2010 with an input of \$35,000 which is allocated for

reoccurring expenditures such as administrative costs, members' travel reimbursements and investigative working group expenses. In addition, there is another \$35,000 that is available, pending a successful budget proposal, that would be for expenditures beyond regular operating costs. Given that a key part of MACZAC's role is assisting CZM and OP with community outreach efforts, the members decided to focus their budget proposal primarily around multi-media outreach (website, DVD, and maps). MACZAC members voted to create a Budget Investigative Working Group to flesh out the details of the proposal with cost estimates. The votes were 8 in favor, 1 opposed, and 1 abstained. Member Walter Ritte emphasized that MACZAC has the manpower so what they really need to do as a group is advocate. Member Makaala Kaaumoana noted that something that MACZAC can do is to gather information and give it to the community so as to empower them. CZM Program Manager Doug Tom added that MACZAC has the power of the pen and the tongue and that they can go not only to the communities but also to the State Legislature and government agencies.

Member Walter Ritte told OP director Abbey Mayer that MACZAC can help with some of the activities that CZM is trying to accomplish such as community outreach, but MACZAC will need access to those additional funds to do so. Walter asked Abbey if there are going to be any problems regarding the \$35,000 and Abbey indicated that while he does have ultimate control over the money, he has no intention of reprogramming those funds and will approve MACZAC's budget proposal as long as it is reasonable.

MACZAC's Investigative Working Group Updates

MACZAC had previously formed four Investigative Working Groups, each focusing on a particular section of MACZAC's mandate pursuant to HRS §205A-3.5: CZM Evaluation Group (chaired by Robin Kaye), Community Input Group (chaired by Kanoa Withington), Advocacy Group (chaired by Makaala Kaaumoana), and ORMP Implementation Group (chaired by Jim Coon).

CZM Evaluation Group

In Robin Kaye's absence, MACZAC Project Assistant Jessica Stabile relayed the message that Robin hopes that members are close to finishing their assigned interviews since the deadline for interviews was supposed to be September 15. Robin would like to follow up on this at the next MACZAC meeting.

Community Input Group

Kanoa Withington reported on plans to update the MACZAC website. The idea is that MACZAC could have two websites, the official one that is attached to the Hawaii CZM Program's website (www.state.hi.us/dbedt/czm/maczac/maczac.php), as well as its own (www.maczac.org) that would be an interactive site where comments and video clips could be posted. That way, MACZAC would help Hawaii residents learn about what is happening on all of the islands. Kanoa has already reserved the domain name on behalf of MACZAC.

Advocacy Group

Makaala Kaaumoana reported that the MACZAC brochure has now been printed. Copies of the brochure, along with members' business cards were made available at MACZAC's exhibitor booth during the HCPO-HIGICC Conference. MACZAC members should distribute these as well as copies of the ORMP at whatever community meetings they attend.

ORMP Implementation Group

Jim Coon reported that decision-makers and the public are learning about the ORMP. Jim wrote an article about the ORMP in the Hawaii Boats & Yachts Magazine's "Dock Talk" section; the magazine has a distribution of 15,000 readers. And in the Sunday edition of the Honolulu Advertiser (9/27/09), a large color spread about the ORMP will be published. These types of efforts serve to get the word out.

Ocean Policy Task Force (OPTF) Meeting in Honolulu

The Obama Administration will hold an OPTF public meeting at various locations in the US Pacific Islands on September 29, 2009. CZM Program Manager Doug Tom opined that he hoped that Hawaii packs the audience to demonstrate to the federal government how important the ocean is to those living in Hawaii. MACZAC members voted to send chair Donna Brown to the OPTF's main meeting in Honolulu (Blaisdell Center) to present MACZAC's testimony in person. Other members will likely attend in their individual capacities, as will some CZM staff. Additional venues on September 29 include UH-Hilo, Kauai Community College and Maui Community College. NOAA's Steve Frano reminded everyone that it is also possible to participate remotely in the meeting by submitting written testimony online, as well as calling in to the listen only phone line or by watching via live webstream.

CZM Program Manager Doug Tom agreed to share his draft testimony with MACZAC, while member Henry Lau briefed the other members on his understanding of the OPTF Interim Report. MACZAC members decided that the thrust of their testimony should be that the ORMP could be a model for national ocean policy that takes an ecosystem-based integrated approach (adopting the ahupuaa concept). Chair Donna Brown added that she liked the fact that the Obama Administration's approach is one that is based on science. Chair Donna Brown and MACZAC Project Assistant Jessica Stabile will collaborate to draft MACZAC's testimony. Written testimony can be any length while oral testimony is limited to only 3 minutes. MACZAC members decided to include a copy of the ORMP as an attachment to their testimony.

New/Old Business

Next Meeting: Agenda Items for Lanai City Public Meeting on December 3

One particular issue that was raised by member Walter Ritte is the Zappacosta mansion being built on the West Molokai shoreline within the Papohaku Ranchlands Subdivision. This is the largest single family house built on agricultural lands in the state. The house is 21,000 square feet. Due to a lack of fresh water supply, the property has a desalinization plant to feed the home's 10 bathrooms and huge pool. Maui County Planning Director Jeff Hunt recommended that the Molokai Planning Commission grant an exemption for the "Zappacosta farm dwelling" from the SMA permit requirements. At the next MACZAC meeting, members would like to discuss the county SMA process and would also like to receive an update on the State's Climate Change Task Force. Member Makaala Kaaumoana noted that the recent visit by CZM Program Manager Doug Tom and CZM Planner Shichao Li to the Kauai Planning Commission was well-received. Kauai appreciated them sharing their knowledge during the training and felt that they provided very good information about CZM and the SMA permit system, as well as sea level rise.

Future Meeting: Kaneohe Public Meeting & Limited Meetings at Heeia Wetland and Coconut Island

MACZAC members intend to have their first meeting of 2010 in Kaneohe so as to attract public input from residents of Windward Oahu. The public meeting will be combined with a "limited meeting" of

MACZAC at Heeia Wetland and at the University of Hawaii's Institute of Marine Research on Coconut Island. The MACZAC meetings will likely be scheduled for sometime in late February, after the national 2010 Coastal Program Managers' Meeting, so that MACZAC may receive a meeting report from NOAA's Steve Frano. The one issue that MACZAC anticipates wanting to discuss will be DLNR's proposed amendments to HAR relating to their Recreation Renaissance Plan; MACZAC will invite DLNR chairperson Laura Thielen to the public meeting.

DLNR-DOBOR's Draft Rules for Hanalei Bay ORMA

Member Makaala Kaaumoana reported that DLNR pulled Hanalei Bay out of the new draft rules.

Adjournment and Next Meeting Date

The next MACZAC meeting will be on Thursday evening, December 3, in Lanai City.

Chair Donna Brown adjourned the meeting at 4:20 p.m.

September 22, 2009

To: MACZAC
From: Doug Tom 
Subject: CZM Report

Administrative. The state fiscal situation is still in flux. For the expired fiscal year, state funds earmarked for services on a fee basis, i.e., for the counties' participation in the program, were zeroed out by the administration at the end of the year. Although the request to encumber the funds for the county contracts was filed in the first month of the fiscal year, no DBEDT action was taken or explanation given to repeated inquiries and requests for action. Upon denial of the budgeted funds, reconsideration was requested but denied. Consequently, CZM's entire state budget consisted of payroll costs for two employees. We are presently collaborating with OCRM on a grant extension and reprogramming of funds to fulfill the fiscal agreement made to the counties for the past and present years. For the present year, unfortunately, we anticipate that the budget will be the same or less.

As of this date, the reduction-in-force (RIF) plan is still moving forward. In addition to the proposed elimination of one general funded CZM position (there are only two), two CZM staff were notified that they will be "bumped" out of their positions by unidentified people from other programs. A major question is the limit of the Governor's lay off authority. To what extent does she have authority in establishing or eliminating general fund positions since the Legislature has the ultimate authority in approving or disapproving budgets and personnel counts proposed by the administration? This and other factors contribute to uncertainty and low morale. In addition, the administrative services upon which the CZM Program depends to move the approved grant program and initiatives forward has been substantially slowed, making work more difficult and frustrating.

On Monday, September 21, 2009, at the joint briefing of the Senate Committee on Economic Development and Technology and the House Committee on Economic Vitalization, Business, and Military, Sue Sakai and Walter Ritte presented testimony on behalf of MACZAC and provided their own thoughts. CZM appreciates MACZAC's support, and especially Walter's as he made a special trip to participate in the briefing. I also provided personal testimony.

National CZM Act. Still no new information to report on.

Ocean Resources Management Plan (ORMP). The major effort was the preparation of a draft framework for the climate change study. After a number of meetings of the ORMP Working Group and its climate change caucus, a final draft was completed that will be presented to the newly established climate change task force.

The ORMP outreach caucus put together an ORMP outreach spread that will appear in the September 27th issue of the Honolulu Advertiser as part of its "Man, Land and Sea" series. A

similar advertisement will also appear in the Star Bulletin. CZM appreciates Donna Brown's help and contribution as her photographs were used.

The ORMP watershed caucus has been meeting to discuss the idea of having quarterly meetings with a range of watershed management agencies and organizations to improve coordination. There is ongoing discussion about how the meetings ought to be organized, who should be involved, and what the objectives should be, among others.

The first meeting of the new established climate change task force has been scheduled for 1:00 to 3:00 p.m., Tuesday, October 6, 2009, at the Office of Planning conference room, although not all designations have been made. At the time of this writing, the DLNR and the three neighbor island county mayors have not designated their members.

Act 20 charged the task force to: (1) scope the current and potential impacts of climate change on the people, natural resources, and the economy of the state; (2) scope the potential impacts of rising ocean levels as a result of climate change on the people, natural resources, and the economy of the state; (3) estimate the costs to the state of the adverse effects associated with climate change and rising sea levels; and (4) make recommendations to the Legislature and the Governor on measures that would address or mitigate the near- and long-term effects of climate change. A preliminary report of the task force findings is due 20 days before the next session.

Special Management Area (SMA) Permit System. Several applications for SMA permits in the Kakaako area were filed. A site visit was conducted to both validate the information on the permit application and to both validate and collect new information for the Kakaako SMA GIS database.

The final environmental impact statement for the seawater air conditioning project was submitted to the OEQC for publication of its availability for public review in the September 23, 2009 issue of the Environmental Notice. The decision on its acceptability is due on September 28, 2009.

SMA public hearings were recently conducted for two development proposals in Kakaako. Because of technical and legal irregularities for one, a temporary parking lot, a resubmission was ordered. There is also the likelihood that public members will demand a contested case hearing at the new hearing given their expressed concerns about public access and other interests.

Relative to the SMA permit system, we raised items for discussion with the counties. They include:

- validating or verifying information in SMA applications;
- how determinations are made to process applications for major or minor permits, or grant exemptions;
- monitoring and enforcement to assure timely compliance of permit conditions;
- rule provisions, or their absence, for reconsideration of permit decisions or the revocation of permits; and,

- rule provisions, or their absence, for the conduct of contested case hearings.

We anticipate formal discussion of these at the next CZM county planning directors meeting. In the interim, CZM is collecting information on the latter two items and has initiated discussions with the Attorney General's Office and the State hearings officer to design a process for which specific and clarifying amendments to OP's SMA rule governing community development districts will be pursued as well as to encourage complementary county action.

CZMA Performance Measurement System. In Connie Hoong's absence, staff took on the work to review and update the project based on the final federal guidance and to coordinate the preparation and collection of data with the counties and other entities. Because of the additional stress on the program with declining resources, CZM will perform only the minimum to satisfy federal requirements until human and fiscal support for CZM improves.

Section 309 Assessment and Strategy. Work on the Section 309 program has been progressing, satisfying all federal requirements. However, we have not been able to initiate the new assessment and strategy because of staff shortage. A draft assessment and strategy must be submitted to OCRM by March, 2010. Failure to do so will result in a forfeiture of the match free grant funds of about \$175,000 a year possibly for the next five years. Given the state's economic situation, the need for these funds is more pronounced. Acquiring private assistance through the RFP process is not a practical option. Besides, contractors do not have the substantive working knowledge to undertake the work without substantial staff assistance. Hence, we are exploring options with the University of Hawaii, where there are people with operational CZM knowledge.

A CZM staff serves as co-chair of the State Building Code Council's investigative subcommittee, the purpose of which is to assess the county building departments' training needs for the revised building codes and plan training sessions. The subcommittee is planning statewide meetings for the counties and including state personnel in the county training sessions. The work is an element of our Section 309 coastal hazards strategy.

In addition, the preparation of a design guide for the Hawaii-specific wind provisions that will be adopted in the State building code should be commenced soon. The guide will provide comprehensive technical reference for architects, engineers, construction industry suppliers and contractors, and public sector building officials. A request for exemption from the request for proposals process was filed and reviewed through the public notice process. In anticipation of official approval from the State Procurement Office, a draft contract for the services has been prepared and is pending administrative and legal review.

Coastal Nonpoint Pollution Control Program (CNPCP). Work in this area has not advanced much given the absence of the CNPCP coordinator for medical reasons. In collaboration with the Department of Health (DOH), we engaged the services of a contractor to prepare the watershed guidance, which is about developing the parameters for determining priority watersheds for planning by DOH and CZM.