

**MINUTES FOR THE  
BRIEFING MEETING OF THE  
BOARD OF LAND AND NATURAL RESOURCES**

**DATE:** THURSDAY, JUNE 13, 2013  
**TIME:** 2:00 A.M.  
**PLACE:** KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 2:13 p.m. The following were in attendance:

**MEMBERS**

William Aila, Jr.  
Jerry Edlao

Rob Pacheco  
Dr. Sam Gon

**OTHERS**

Russell Sparks/DAR: F-1

Dr. William Walsh/DAR: F-2

{NOTE: Language for deletion is [bracketed], new/added is underlined.}

Chair Aila introduced the two new Land Board Members: James Gomes representing the island of Maui and Reed Kishinami representing the island of Oahu and welcomed them as special guests.

**Item F-1      INFORMATIONAL BRIEFING ON PROPOSAL TO ADOPT A NEW CHAPTER UNDER HAWAII ADMINISTRATIVE RULES (“HAR”) AS TITLE 13 CHAPTER 95.1, ISLAND-BASED FISHERIES RULES, TO ESTABLISH NEW BAG AND SIZE LIMITS FOR MAUI AND LANA‘I ISLAND FISHERIES      *NON-DECISION MAKING ITEM***

Russell Sparks, an Aquatic Biologist (from the island of Maui), representing the Division of Aquatic Resources (DAR) conveyed the background and history on item F-1 and informed the proposed regulated island-based fisheries rules package for the islands of Maui and Lanai. Mr. Sparks shared the scientific support and the scoping process that was discussed with the communities held on Maui. Mr. Sparks was encouraged by the mission statement of DAR, which is to manage, conserve and restore Hawaii’s aquatic resources and ecosystems for present and for future generations.

Mr. Sparks explained the many different ways of which the people have used the aquatic resources. Some examples are: recreational use, subsistence, cultural and commercial use. On the contrary, Mr. Sparks explained the decline of resources through over-fishing, which led the communities to share their concerns and eventually motivated the process of the rule package.

Mr. Sparks conducted a 30-minute slideshow presentation on the history and the many concerns of over-fishing and the bag limits with different fishes.

The first part of the slideshow presentation was using literature quotes that dated back in the 1900’s. During the 80’s and 90’s, DAR provided questionnaires that targeted fishermen and their many concerns. The first recent questionnaire was in 1998 and a total of 863 fisherman were surveyed (87% of the respondents were from Oahu while the rest were from Maui and Hawaii). Since the 1900’s to the 20th century, there has been a fairly rapid decline of fishery catch reports and as time went on into the 21<sup>st</sup> century, advanced technology has helped the track record become more efficient. During the public proposals, there were many questions and concerns about commercial and recreational fishing and the economic impact on significant sales from reef fish. The annual sales reported from over 2,000 commercial fishers statewide, shows that only a little over 500 ever sell reef fish, and for the majority of those fishers, those sales are less than \$1,000 per year. Statewide, only 13 commercial fishers reported sales in excess of \$20,000 per year and Maui, there are only three fishers who reported sales in excess of \$10,000 per year. Other public concerns referred to independent data, or fish bio-mass measures. A higher level of herbivore bio-mass helps control the algae growth on the coral reef, but on the otherhand; a decrease on fish bio-mass may allow some reefs to become degraded and overgrown by invasive algae.

A graph of the population and accessibility of the coastline in the main Hawaiian Islands was presented. Mr. Sparks went over the many different types of outreach that was conducted at countless community and stakeholders meetings to go over certain ideas of how to best manage certain types of fishes to put a proposal together.

During the middle portion of the slideshow presentation, Mr. Sparks discussed the specific proposal in regards to minimum fish size and bag limits per fish.

During the last part of the presentation, Mr. Sparks pointed out the substantial portion of the fishing public who supported the proposed rules. Questionnaires were distributed to the fishing community to receive input. The results were mostly in favor of the proposed rules with about 70% of the questionnaire participants in favor.

Both the Chair and Mr. Sparks discussed how fishing effort may shift to other species as a result of these new minimum size and bag limit rules. Mr. Sparks pointed out that DAR will need to be adaptive and be willing to adjust these rules and or create new ones if shifting fishing effort creates new resource concerns in the future. For example, in the past there was a shift in fishing effort from net fishing to scuba spearfishing. This change occurred in relation to the lay-gillnet rules on Maui. This has stressed many of these large reef fish and these bag limit rules are in part a response to this change in fishing effort. These rules have taken a long time to get to this point, but hopefully in the future we can move quicker and be more adaptive with the rule-making process.

Member Jerry Edlao asked what will happen when someone gets caught. Will there be enforcement rules. Mr. Sparks stated that the possession limit would make it a lot easier to enforce the bag limit and that the definitions and language were currently being altered to be as clear and straight forward as possible. In addition, a system is needed that provides both criminal and civil penalties that will help to build compliance with the rules.

**No action taken on item F-1.**

**Item F-2      INFORMATIONAL BRIEFING AFTER PUBLIC HEARING ON PROPOSED AMENDMENTS TO HAWAII ADMINISTRATIVE RULES (HAR) TITLE 13, CHAPTERS 54, "PUAKO BAY AND PUAKO REEF FISHERIES MANAGEMENT AREA", AND 57, "KEAUHOU BAY FISHERIES MANAGEMENT AREA"; REPEAL OF HAR TITLE 13, CHAPTER 60.3, "WEST HAWAII REGIONAL FISHERIES MANAGEMENT AREA, HAWAII"; ADOPTION OF A NEW CHAPTER 60.4, "WEST HAWAI'I REGIONAL FISHERY MANAGEMENT AREA, HAWAI'I"; AND AMENDMENTS TO TITLE 13, CHAPTER 75, "RULES REGULATING THE POSSESSION AND USE OF CERTAIN FISHING GEAR"**  
***NON-DECISION MAKING ITEM***

Dr. Bill Walsh, DAR Biologist for West Hawaii, discussed the rule package that has undergone community discussion for over ten years in West Hawaii. He conveyed some history of the Administrative Rulemaking process on item F-2. It's received approval from the Board to hold a public hearing and testimony was solicited for over two months. Small Business Regulatory Review Board meetings were held twice, and now it's back before the Board for decision making.

Dr. Walsh provided a 30 minute slideshow presentation.

The first part of the presentation presented some biological realities of the Big Island in being upstream of all other Hawaiian Islands and the limited coral reef area as compared to other islands such as Maui, Kauai and Oahu. Dr. Walsh then presented some of the results of a long term study of fishery resources in South Kohala at Puakō and Pauoa that was conducted initially by the University of Hawaii (UH) in 1979-81 and then redone by DAR in 2007/2008. There were a total of 265 individual 500 m<sup>2</sup> transect surveys conducted by over 25 survey divers in the study. In terms of changes in benthic habitat, total coral coverage declined by 35% at Puakō and 21% at Pauoa over the past quarter century. Crustose coralline algae has declined dramatically – down by 64% at Puakō and by 87% at Pauoa. Crustose coralline algae are one of the fundamental building blocks for the maintenance of a healthy coral reef. This algae grows, encrusts, solidifies, and actually induces coral larvae to settle. When this component of a coral reef decreases, it fundamentally reduces the resiliency and the ability of reefs to maintain themselves and to respond to change. In contrast to the declines of coral and coralline algae, turf and macroalgae increased by 38% at Puakō and 322% at Pauoa.

Declines in fish populations were also evident over time. In terms of trophic (feeding) groups herbivores (algae eaters) decreased by 94% at Puakō and 86% at Pauoa. Marked declines were also noted for planktivores, invertivores and piscivores (fish eaters) at both sites. The top 5 most abundant fish families, representing 92% of all fish on 79-81 surveys, decreased at both sites. Goatfishes declined by 90% at Pauoa. Declines in total fish abundance occurred at both sites in all 6 of the habitats studied from the shallow surge zone to the deeper sand-coral interface. The average decline in total fishes was 52% at Puakō and 61% at Pauoa.

Another long-term study recently completed by The Nature Conservancy (TNC) biologists at Puakō similarly found decreases in coral cover and noted that large fish at Puakō were much rarer than at other Kona Coast locations. The maximum size of five fish species targeted by fishermen also declined by about 15% since 1982. They noted that fishing pressure appears to have increased in the area since 1982 and Spearfishing, especially using SCUBA, was higher in 2010 than in 1982. While other environmental stressors such as sediment and pollution from septic systems and cesspools cannot be ruled out, fishing appears to have contributed to declines in fish size and abundance on Puakō reefs over the last 30 years. Another long-term study by DAR in South Kona at Honaunau also found marked declines in many fish species over recent decades.

The West Hawaii Regional Fisheries Management Area (WHRFMA) is unique because it is one of only two FMAs that was created by legislation. The purpose of the West Hawaii Regional Fisheries Management is to manage fishery activities to ensure sustainability, enhance near-shore resources, and minimize conflicts of use. Dr. Walsh shared the background and history of the West Hawaii Fisheries Council that was formed in July 1998 allowing a total of 68 members to meet on a monthly basis. More than three-quarters of the members are fishers or harvesters and almost half have held commercial Marine licenses. This Council acts as a conduit for concerns regarding marine resources and for bringing information to the community and ultimately developing management recommendations to DAR and DLNR. Within the first four years, local resource councils were formed in the remote parts of the Big Island such as Miloli'i (South Kona) and Kawaihae (North Kohala) to have small groups with very strong local community support.

Dr. Walsh explained the end process of Administrative Rulemaking and summarized the final results of testimonies that were received on the rules package, The WHRMA rule is currently being repealed and a new rule adopted based on the advice of the Deputy Attorney General (AG). There are four main components pertaining to the new rule that DAR recommended for approval. There were some controversial issues yet there was overwhelming support for all of the proposed rules.

The Chair shared his concerns in regards to his intention of pulling out the Puakō FMA rule due to the terms with the definition of 'infringing reef' and the impacts it has. He made an announcement that scuba spearfishing was removed from the rules package and will not be presented at the formal rule making two weeks from now. The Chair pointed out that he felt uncomfortable to make a decision due to a map to describe an infringing reef and that the community needed clarification for a significant and subsequent changes, as a result, the Chair decided to pull out the specific rule to address the definition. The Chair was not confident about the definition of infringing reef because he wanted the rules package to be consistent. The Chair was also concerned about the consequences of fishermen who will continue to scuba dive because they will continue to eat fish. His view was to get information so the rules could be discussed again. The Chair expressed his concerns of preference to have information relative to Hawaii versus something that some other country has done based upon another desired outcome.

Many questions and concerns were expressed by the fellow Board Members concerning the Chair's decision to remove certain rules in the package without his fellow Board Members' consent. The Chair shared that it was his prerogative if he had questions and concerns and required any additional information with the scuba spearfish that needed to be researched and made clear before it was presented to the Board. He shared that in the past, other Chairpersons have removed other rules before they have come to the Board. Member Rob Pacheco said that it has been done after the public process. The Chair shared that he would be happy to speak with the AG in regards to the many questions, comments and concerns of his fellow Board Members.

Member Edlao was interested in hearing both sides of the story through public testimonies and discussion on both sides. Being that his term is coming to an end, he desires for a good decision with a happy medium to satisfy everyone and to fulfill his duties to the public. Both Member's Edlao and Pacheco shared their concerns of why the Chair had not thought about this long time ago and why did he remove certain rules at the last minute without the Board's discretion. Member Edlao requested for transparency while Member Sam Gon said that it was improper to leave questions.

In conclusion, The Chair expressed his feelings in response to his fellow Board Members concerns and pointed out that he will solicit advice from the AG concerning the removal of the rules.

**No action taken on item F-2.**

### **Adjourned**

There being no further business, Chairperson William Aila adjourned the meeting at 3:47 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Marlou Lamblack  
Land Board Secretary

Approved for submittal:



William J. Aila, Jr.  
Chairperson  
Department of Land and Natural Resources