

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

September 12, 2008
1:00 pm – 5:00 pm
Grand Wailea Resort & Spa, Pikake Conference Room
3850 Wailea Alanui Drive, Wailea, Maui, HI 96753

MINUTES

ATTENDANCE

- Members Present: Donna Brown, James Coon, Makaala Kaaumoana, Robin Kaye, Henry Lau, Rhoda Libre, Walter Ritte, Susan Sakai, Kanoa Withington, Donna Wong
- Members Absent: Arnold Lum
- OP/CZM Staff Present: Connie Hoong, Melissa Iwamoto, Shichao Li
- Others Present: Robert Wintner (The Snorkel Bob Foundation), Jessica Stabile (MACZAC)

DISTRIBUTED MATERIAL

- Meeting Agenda for September 12, 2008
- Minutes of the May 9, 2008 Meeting
- CZM Report for September 3, 2008
- ORMP Outreach Strategy: Preliminary Steps
- 11th International Coral Reef Symposium 2008: Outcomes Overview
- “Building a Coral Ark”
- “Coral Under Siege”
- “The State of Coral Reef Ecosystems of the United States and Pacific Freely Associated States: 2008”
- “Status and Trends of Maui’s Coral Reefs”
- “Hawaii’s Reef Fish in Peril”
- “Marine Debris Forum”
- “Judge Finds Honolulu Liable for 297 Violations in Sewage Spills”
- “DLNR Clarifies Rules for Commercial Activities on State Lands: Permits Required for Beach Weddings”
- “Kailua’s Sandy Shore Fading”
- “Turning Algae Into Energy”
- “Shell Joins in Hawaii Algae Biofuels Venture”
- “Proposal Seeks Fuel Boon from Blooms”
- “Algae Farm May Fuel Maalaea Power Plant”
- “Elections Begin for ‘Aha Kiole”

Call to Order

Vice-Chair James Coon called the meeting to order at 1:25 p.m. Everyone introduced themselves.

Announcements

New MACZAC member Robin Kaye (representing Lanai) was welcomed to the group. Robin gave a synopsis of his background and interest in marine and coastal issues. All other members followed suit.

Jessica Stabile informed the group that the Office of Planning (OP) was currently reviewing applications to fill MACZAC's one remaining vacant seat. The decision would be made soon, and Jessica would inform the group once the new member (representing Big Island) was formally appointed. The group then discussed OP's process of appointing new members.

Hawaii Coastal Zone Management Program (CZM) planner Melissa Iwamoto announced that OCRM conducted a site review of the Hawaii CZM Program in July-August. The draft findings of that section 312 federal evaluation are expected later this year.

Approval of the May 9, 2008 Meeting Minutes

Minutes were unanimously approved, with the caveat that the final version will be distributed later.

Election of MACZAC's Chair and Vice-Chair for 2009

Donna Brown was elected as MACZAC's Chair, and James Coon was re-elected as Vice-Chair. Their terms will begin on January 1, 2009.

CZM Hawaii Program Report

See attached report for September 3, 2008 prepared by Douglas Tom, CZM Program Manager.

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

Melissa Iwamoto reported that the ORMP Policy Group would be meeting on September 15. The ORMP Working Group will make two proposals to the ORMP Policy Group intended to improve implementation of the ORMP. The proposals involve ocean data integration and real time information sharing between government and non-governmental agencies, and also studying the place-based impacts of global climate change in Hawaii.

Both the Report on the Hawaii Community Stewardship Workshop and the Directory of Community Stewardship Groups in Hawaii have been finalized and are now available on the CZM website. The Directory will be periodically updated and Melissa asked for MACZAC's assistance in identifying any additional community groups that could be added to the list. Melissa indicated that the next step may be to create kuleana diagrams of each relevant government agency's area of authority so that community stewardship groups can be informed of how their particular area of interest intersects. CZM is also looking

to implement an ORMP pilot project in collaboration with a community stewardship group engaged in place-based coastal resource management efforts. The first step in the pilot project will be to collect baseline data on the location's natural resources, people, knowledge, cultural practices, and the issues that the community wants to focus on.

The ORMP Working Group and Policy Group have identified public outreach for ORMP implementation as a priority next step. MACZAC is being looked to for assistance in ORMP outreach in local communities to promote and incorporate ORMP principles into local community stewardship efforts. Key ORMP topic areas preliminarily identified include: land-based pollution, coastal hazards, coastal land acquisition, environmental infrastructure, invasive species, biological diversity, harbor facilities, marine protected areas, ecosystem-based fisheries management, Hawaiian fishponds and salt ponds, aquaculture, enforcement, public access, ocean science and technology, alternative energy sources, recreation and tourism, and place-based/community-based management. MACZAC discussed the topic areas and how to best prioritize and merge them, and came up with a recommendation for James Coon (MACZAC's representative to the ORMP Working Group) to present at the next ORMP meeting. MACZAC's suggested priority would be: (1) coastal hazards, (2) place-based/community-based management (including Hawaiian fishponds and salt ponds, ecosystem-based fisheries management, and aquaculture), and (3) land-based pollution. MACZAC members agreed with ORMP Working Group members that it is imperative that the impacts in Hawaii of global climate change, especially sea level rise and increased storm severity, be better understood. Such coastal hazards are of vital importance to an island state.

MACZAC Investigative Working Groups' Updates

Robert Wintner, of The Snorkel Bob Foundation, gave a presentation on the commercial collection of aquarium fish in Hawaii. Robert explained that the unsuccessful S.B. No. 3225, which was killed in the House in the Twenty-Fourth Legislature (2008), had proposed an ornamental reef fish collection limit and the establishment of fish replenishment areas. The health of Hawaii's reefs and the associated marine ecosystems are an integral part of Hawaii's economy. With limited regulation for effective management in place, Hawaii's coral reef habitats are being degraded and fish populations are decreasing. The collection of algae-eating fish is rampant and so consequently corals are being smothered by algae and reef health is declining. Hawaii's aquarium industry's hub is in Kona. Statewide, approximately 200 commercial fishers presently hold valid aquarium permits for the aquarium fishery, with numerous others operating illegally. The actual figure is unknown, but it is estimated that 5-6 million ornamental fish are shipped out of Hawaii annually. The S.B. No. 3225 had called for DLNR to more effectively and responsibly manage the aquarium fish trade, through expanded inspection powers, better enforcement and stronger penalties.

MACZAC Investigative Working Groups' Updates

Marine Managed Areas Working Group:

Chairperson Donna Brown indicated that she had been very busy since MACZAC last met. Donna attended the Hawaii Conservation Conference, the International Coral Reef Symposium, and the U.S. Coral Reef Task Force. Donna came away with a sense of urgency to protect coral reef ecosystems before it is too late. Coral reefs are under incredible stresses from rising atmospheric CO₂ and ocean acidification, land-based runoff pollution, alien species, and overfishing. Establishing marine managed areas can allow fish to grow and spawn and eventually repopulate neighboring areas. This will ultimately benefit fishermen (as well as other recreational ocean users), but will need community buy-in. A top-down

approach will not be successful. Public education is the first step in a bottom-up approach, so that it is local communities informing government what they want and where, and how they will enforce the area.

Donna also noted that a booklet she helped contribute input on, entitled Making A Difference: An Action Guide to Marine Conservation in Hawaii, is now available in hardcopy or online at DAR's website.

Wastewater Working Group:

Member Makaala Kaa-umoana reported that the group needs to elect a new chair, and that there is a wastewater pilot project in Haena, Kauai that she is following and will keep MACZAC informed about.

Lua/Kauai Compost Toilet Facilities Working Group:

Chairperson Rhoda Libre mentioned that a potential compost toilet site on Kauai is First Ditch, Kekaha, where the Rotary Club, Westside Watershed Council and PRMF are working in partnership.

Regulatory Review Working Group:

Chairperson Sue Sakai noted that the DOH's Office of Environmental Quality Control (OEQC) will be hosting a workshop reviewing HRS § 343 (EIS Law) at the Ala Moana Hotel on December 1. Both Sue Sakai and Donna Wong will attend.

Boating Working Group:

Chairperson James Coon noted that the new vessel sewage pump-out facility at the Manele Small Boat Harbor on Lanai is now functional.

Shoreline Access & Coastal Parking Working Group:

No report was given as Chairperson Arnold Lum was absent from the meeting.

Legislative Working Group:

Chairperson Donna Wong had nothing to report. Donna noted, however, that MACZAC members should have sufficient time to review upcoming bills before the next legislative season starts.

Hui Kuleana Working Group:

Member Walter Ritte emphasized the need to coordinate with DLNR and the 'Aha Kiole Advisory Committee. The Hui Kuleana Working Group is seen as different but overlapping with those efforts.

Timely Topics

Open Ocean Aquaculture:

Robin Kaye broached the subject of open ocean aquaculture in Hawaii in general, and in Lanai in particular. The Maui Fresh Fish LLC, already operating on north Maui, has proposed opakapaka fish farming off the south shore of Lanai in one of the island's most popular fishing spots and also within the waters of the Humpback Whale National Marine Sanctuary. MACZAC members discussed the need for more long-term research studies of the affects of aquaculture on the marine environment as well as the need for consultation with local residents. MACZAC will continue to follow this topic in the future.

Coastal Carrying Capacity:

Robin Kaye opined that coastal carrying capacity is a very important issue in Hawaii. MACZAC members discussed ways in which capacity can be determined. It is a very site-specific determination.

Robin expressed concern with the excessive crowding (by local standards) at Hulopoe Beach on Lanai. Other MACZAC members likewise expressed similar situations on their respective island's beaches and coastal parks. The question for local residents is "How many people is too many?". To study and address these issues, Robin proposed establishing a new Coastal Carrying Capacity Investigative Working Group, with himself as the chair. Members voted to establish the new group.

Molokai:

Walter Ritte proposed establishing a new Molokai Investigative Working Group, with himself as the chair. Members voted to establish the new group. Walter will coordinate holding public informational meetings to get the Molokai community involved.

New Business

MACZAC Publicity:

Group members discussed the need to get the word out about MACZAC to the local community. They see this effort as both MACZAC's and OP/CZM's kuleana. Proposals for information dissemination included creating a MACZAC brochure and also enhancing MACZAC's webpage. Members also suggested that CZM add more links to their website, such as the State Building Code Council's wind speed amendments, public access regulations, and SMA permit rules, that would aid the public in becoming more informed and educated. Jessica Stabile is to coordinate with CZM staff on these ideas.

Agenda Items for the Next MACZAC Meeting:

At the next MACZAC meeting, members would like to engage in strategic planning ("policy pow-wow") and discuss their budget. Members would also like to follow-up on their discussion of MACZAC publicity efforts.

Adjournment and Next Meeting Date

The next MACZAC meeting is scheduled for October 17, 2008 at the OP Conference Room in Honolulu. The MACZAC meeting will be a strategic planning retreat.

Vice-Chair James Coon adjourned the meeting at 4:30 p.m.

September 3, 2008

To: MACZAC Members

From: Doug Tom



Subject: CZM Report

Personnel. In June, Kenneth Roberts joined the CZM team. He has a Master's Degree in Urban and Regional Planning from the University of Hawaii. His primary assignment is the completion and federal approval of the Coastal Nonpoint Pollution Control Program. In addition to helping assure polluted runoff concerns are considered in the Ocean Resources Management Plan project, he also oversees the Idaho OnePlan project. One vacancy remains. We will assess our CZM budget to determine options for the vacancy after the final budget adjustments are made.

National CZM Act. The U.S. island jurisdictions understand that the need for ocean and coastal governance is more pronounced than ever before. The coast remains the backbone of their and the nation's economy, and population migration to the coast is continuing. As a result, there is more intense competition for access and use of the limited resources. There are also serious concerns about ocean processes and the implications global climate changes will have on them. Global warming, ozone depletion, changes in the frequency and severity of tropical storms, changes in rainfall patterns, and sea level rise are possibilities that could have devastating impacts on islands. Diminished beaches and degraded coastal waters threaten the quality of tourism, the main economic activity for many islands. Retreat from rising sea levels and storm waves will be difficult to implement. Marine life migratory patterns, their food sources, agriculture, and a host of other important life-sustaining activities will be altered. Balancing economic health and environmental quality is much more difficult.

Having conferred, the islands affirm their interest and commitment to a meaningful national program. However, for equity and effectiveness, changes in the national concept are necessary. A ten point insular perspective on CZMA reauthorization has been filed with the directorship of the federal Office of Ocean and Coastal Resource Management (OCRM). Among others, it calls for the acknowledgement and respect for different values and needs; conceptual and financial support for management, especially prevention rather than prescriptive standardized quantitative performance measurements; aggressive enhancement of insular science to better link science and management in insular areas; insular capacity building, especially since insular science is at budding stage; emphasis on collaboration to assure relevancy and equity; congressional and federal support for ocean resources planning and management; and adequate federal financial assistance, research, and collaboration to prevent, respond to, and mitigate the effects of global climate change as well as educational and outreach programs.

Overall, the islands firmly believe that the operating philosophy of the national CZM Act should be flexibility and equity, so that participants can address their different values and needs while simultaneously satisfying national interests. Federal decision-making should be equitable

and collaborative rather than prescriptive. Federal agencies should also have the burden of proof for their decisions and directives.

Section 312 Federal Evaluation. Section 312 of the national CZM Act requires periodic assessments of state CZM programs. In July and early August, the OCRM conducted a site review of Hawaii's program. It covered the program's accomplishments and challenges from late 2004 to date. The major topics included ocean resources planning and management, coastal ecosystems, coastal hazards, public access, open space, managing development, public participation and outreach, coastal nonpoint pollution control, coastal estuarine lands and conservation, performance measurements, federal consistency, and other accomplishments and issues. Draft evaluation findings for review are expected sometime in November or later.

Ocean Resources Management Plan (ORMP). The ORMP Working Group continued its work implementing the ORMP and developing legislative and administrative proposals aimed at improving the ORMP and CZM Program for Policy Group consideration. Some of the ideas include amendments to Chapter 205A relating to shoreline setbacks, watershed planning, a Hawaii Ocean Observing System database project, and global climate change.

The ORMP Working Group is discussing how best to proceed with an outreach strategy for the ORMP. The attached entitled *ORMP Outreach Strategy: Preliminary Steps* outlines an approach to reach community-based stewardship groups. The group also wants to build the strategy based on extensive MACZAC participation so that MACZAC can both represent and reach out to the publics the members represent. MACZAC is encouraged to delve into this, both as a whole and through a working group, and provide comments to assist further development of the strategy, as well as to define the tools and resources it requires since time is a factor.

The Hawaii Community Stewardship Report and Directory are now on the CZM website. It will likely be expanded on an ongoing basis as requests for inclusions of groups continue. Any interested group can download an organizational profile form and submit a completed form to be included in the directory.

In order to expand support for community-based efforts, CZM is examining options with organizations for capacity building workshops.

Contractor services will be sought in the forthcoming months to compile statutes, ordinances, and rules relating to native Hawaiian rights, natural resource management, land-based pollution, and other related issues in support of the community-based planning project. In addition, the services involve recommendations on specific legal changes that will best support the effort and the long-term ORMP goals.

CZM is deliberating over the best options for a pilot community approach to implement perspective 3 of the ORMP. A year ago, MACZAC agreed to help assess and monitor ahupua'a and moku issues and maintain dialogue with communities. MACZAC provides valuable input, and CZM is depending on this continued support to help move the project forward.

Federal Consistency. The most notable project was the U.S. Navy's Hawaii Range Complex (HRC) project. The Navy submitted a comprehensive federal consistency determination covering activities over the next five years to support and conduct present and emerging Navy Pacific Fleet training and operations, and to upgrade or modernize range complex capabilities to enhance and sustain Navy training and testing. The HRC covers 235,000 square nautical miles around the main Hawaiian islands and an additional 2.1 million square nautical mile temporary operating area of sea and airspace. The project involved both the multi-nation RIMPAC exercises and the undersea warfare exercises (USWEX), which uses mid-frequency sonar.

On May, 2008, CZM issued a partial concurrence and partial objection. The concurrence prescribed specific operational conditions and mitigation measures for the sonar use relative to CZM enforceable policies aimed at protecting endangered marine mammals such as whales and monk seals. It limited the Navy sonar use to 145 dB based on scientific research and collaboration with scientists. An objection was issued for two activities. CZM did not agree with the use of Kaula Island for bombing until a monitoring plan and baseline survey of birds are completed and submitted for CZM review and concurrence. These were previous CZM consistency concurrence requirements that were not fulfilled. The other objection was the development and operation of a directed energy (laser weapon) facility at the Pacific Missile Range facility until operating procedures and safety requirements are developed and the potential hazards identified. In response to our decision, the Navy on June 20, 2008 issued its notice of intent to proceed over the conditions of our concurrence and over our objections to the use of Kaula Island. However, the Navy agreed to submit a separate CZM consistency determination for the directed energy proposal when the operational details are developed.

The next steps the state may take are being deliberated.

On a more positive note, in September, CZM will host a Navy environmental engineering intern for about three weeks as part of the Navy's program to provide its civilian employees a comprehensive perspective of the federal and state programs the Navy interacts with. CZM has continually encouraged this arrangement and has previously hosted interns. In addition to developing the intern's knowledge, the training contributes to improved federal-state relations and consistency determinations.

Coastal Hazards. In partnership with NOAA's Coastal Services Center, a two-day workshop on project design and evaluation was held in mid-May. Twenty-eight state and county professionals of the counties of Hawaii, Maui, and Kauai; the Office of Planning; Department of Health; and the Department of Defense's Civil Defense Agency participated. While its focus is much broader than coastal hazards, the opportunity was developed in our collaboration on coastal hazards. Participants offered extremely positive feedback, and indicated they are actively employing the skills developed in the workshop.

About the same time, in partnership with the Hawaii Association of County Building Officials, CZM co-hosted 6 training sessions on different aspects of the 2006 International Building Code (IBC) and International Residential Code. About 240 people, including design professionals, participated. Under state law, the counties are mandated to use the state building

codes within 2 years after adoption. The training sessions build capacities for effective code implementation.

The wind speed mapping and building code assessment were completed in June. In July, the maps and amendments for the County of Maui were incorporated into the *Draft Statewide Amendments to the International Building Code*, co-funded by FEMA and CZM and which covers the entire state. It was facilitated by the assistance provided to the State Building Code Council by the State Civil Defense Agency and CZM. Adoption of the new code will provide consistent protection against hurricane hazards through structural design, thus mitigating future hurricane losses in construction. The effort supports CZM goals of effective public safety planning and mitigation of coastal hazards.

As a member of the Coastal States Organization's Coastal Resilience Steering Committee, CZM assisted in collecting information on current resilience efforts of the coastal jurisdictions and assessing the potential for resilience to be used as a performance measure in the national performance measurement system. The committee produced a white paper entitled *Coastal Community Resilience: An Evaluation of Resilience as a Potential Performance Measure of the Coastal Zone Management Act* which concluded that resilience should not be included in the performance measurement system at this time because there is no widely accepted mechanism for measuring resilience, among other factors. However, it advanced the following concrete recommendations for enhancing resilience at the state and local levels:

- Leveraging the economics of disasters. Framing coastal management as part of disaster resilience may be a way to gain resources and support from those that would not traditionally support environmental programs.
- Use existing federal programs, such as the FEMA hazard mitigation and pre-disaster mitigation grants program, to implement projects that will increase coastal resilience.
- Learn from and incorporate principles of smart growth and low impact development.
- Seek ways to involve the private sector in pre- and post-disaster recovery and redevelopment planning.
- Learn from the numerous resilience efforts underway.
- Develop ways to measure resilience without reducing the dynamic and organic aspects of resilience.
- Recognize the importance of a multi-disciplinary, collaborative approach.
- Take advantage of the national attention on climate change, which should result in opportunities and available resources for states to move forward with adaptation planning, sea level rise modeling, etc.

It is unclear at this time whether the paper will be made available to the public.

Special Management Area (SMA) Permit System. CZM is in the process of amending its administrative rule for administering SMA permits in community development districts. Thus far, the proposal has been favorably reviewed by the Legislative Reference Bureau, the Attorney General's Office, and the Small Business Regulatory Review Board. The necessary paperwork for approval to proceed with the public hearing has been recently filed. The rule amendments are mainly housekeeping measures to conform with amendments to Chapter 205A.

Public Access. In various places around the state, private roadway access to shoreline areas is being denied to the public for private and safety reasons. Gates, fences, or other structures are being erected or at least proposed to be. Some of the closures are permanent while others are in effect during specified hours. Adverse public reaction is growing, a major complaint being that the action is contrary to the Hawaiian spirit. Many also allege that it is contrary to the objectives and policies of the CZM statute. The issue was brought to our attention by members of the public after HB 1037 failed to move in conference committee during the 2008 legislative session.

The actions are occurring on private lands, and private property rights are at issue. In these cases, there is no legal requirement for public access since the developments predate enactment of Chapter 205A. The public has been using the private roadways for many years and is now challenging their blockage. While private property owners have expressed concerns about maintenance and liability, their fears about escalating vandalism and drug use are stirring them to privacy and prevention measures.

On June 23, 2008, CZM held a meeting to discuss the issue with the county planning directors, the Department of Land and Natural Resources (DLNR), and the Deputy Attorney General charged with handling public access issues. Deputy Attorney General Linda Chow offered an enlightening presentation of easement by necessity, prescriptive easement, traditional and customary practice, and the applicable statutes. Her conclusion was that Chapters 46 and 115 have adequate provisions to address the issue, although there is no simple answer in them. Hence, specific to Chapter 205A, no amendments were deemed appropriate or necessary.

Shoreline Vegetative Overgrowth. CZM prepared a status report on the issue of vegetative overgrowth along Kahala Beach to share with the Kahala community. It summarizes the activities since the adoption of House Concurrent Resolution No. 258 which requested the Office of Planning to coordinate state and county efforts on the issue at Kahala Beach. Based on community input, the report focused on impacts on the conservation district and state enforcement. The next meeting with the Kahala community is scheduled for September.

National Performance Measurement System. The national performance measurement system is intended to track how well the CZM programs are achieving certain national CZM Act objectives. The data design and narrative report for the last two categories on coastal hazards and coastal community development and coastal dependent uses were filed on schedule. The system will now routinely collect and report data for six specified categories: government coordination and decision making; public access; coastal habitat; coastal water quality; coastal hazards; and coastal dependent uses and community development. Hawaii is considered a front runner in responding to the federal requirement. The counties of Hawaii, Maui, and Kauai, DLNR, and Office of Planning have assisted diligently in the timely submittal of the data and preparation of documents required by OCRM.

A data collection guidebook is being prepared as a reference document to help assure ongoing understanding of the requirements for data collection and submittals to OCRM. In order for county, DLNR, and OP review of and comment on the guidebook to assure its utility, the

final product will be delayed until about January, 2009, after which time it will be publicly available.

Coastal Nonpoint Pollution Control Program. We continue to collaborate with the Department of Health, federal agencies, and interested groups on designing a program to fulfill the remaining requirements for program approval. This year, two agricultural management measures, (1) erosion and sediment control and (2) grazing, were approved by NOAA and EPA. A teleconferencing meeting with EPA and NOAA will be held in September, at which time our work strategy is anticipated to be completed and approved.

In the Idaho OnePlan project, a steering committee meeting was held to collaborate on the progress and products of the contractor. The contractor's work at present is focused on the ground truthing, and the conversion to internet use is expected to be completed before year end. Discussions about a host server and training are ongoing. The project is a customized geographic information system application to assist agricultural operators by providing information about best management practices and environmental plans, especially erosion and sediment control plans and livestock waste management plans.

Coastal and Estuarine Land Conservation Program (CELCP). CZM received two proposals for funding under this program. The projects were assessed and prioritized for NOAA consideration and funding. Priority was given to the proposal submitted by DLNR and The Trust for Public Land to expand the Lapakahi State park in North Kohala on the Big Island. More information on this is available on the CZM website (<http://www.hawaii.gov/dbedt/czm/>).