

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Aquatic Resources  
Honolulu, Hawaii 96813

October 10, 2014

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

INFORMATIONAL BRIEFING ON COMMUNITY BASED SUBSISTENCE FISHING AREA  
DESIGNATION UNDER HAWAI'I REVISED STATUTE § 188-22.6  
*(NON-DECISION MAKING ITEM)*

BACKGROUND

In 1994, Representative Joseph Souki introduced House Bill 3446 as an administration proposal to authorize the Department of Land and Natural Resources (“DLNR”) to create and manage native Hawaiian subsistence fishing areas. The measure was intended to implement Section 7 of Article XII of the State Constitution, to “protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian islands prior to 1778, subject to the right of the State to regulate such rights.” The bill was one of the recommendations put forth by the Molokai Subsistence Task Force, a joint government and community group appointed in 1993 by Governor John Waihee to identify the needs and concerns of subsistence practitioners on Moloka‘i, and to recommend policies and programs to address their increasing difficulties carrying out their subsistence fishing, hunting, and gathering activities.

In 1994, the bill was enacted through Act 271, Session Laws of Hawaii, and the relevant section codified as Hawai‘i Revised Statute § 188-22.6. A pilot project was included in Act 271, but was omitted from the statute because of its temporary nature. The pilot project established a subsistence fishing demonstration project along the NW coast of Moloka‘i with a termination date set for July 1, 1997. With insufficient political and departmental support, formal designation was not approved and the pilot project sunset in 1997.

Since HRS § 188-22.6 was established in 1994, the DLNR has not designated any CBSFAs. In 2005, the Miloli‘i community on Hawai‘i Island was granted a legislative designation under Hawai‘i Revised Statute § 188-22.7. In 2006, the Hā`ena community on Kauai achieved legislative designation under Hawai‘i Revised Statute § 188-22.9. On October 3, 2014, eight years after its legislative designation, Hā`ena’s CBSFA proposed rules will go to public hearing. With respect to Miloli‘i, the DLNR held a public informational meeting to discuss Miloli‘i’s proposed rules on March 30, 2008, but the DLNR decided not to bring the rule package before the Board as a result of the concerns expressed by the public at the informational meeting.

In response to the increasing interest from communities to establish CBSFAs, and to expedite and streamline the process of implementing HRS § 188-22.6, the Division of Aquatic Resources

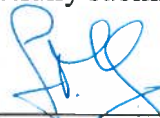
(DAR) is facilitating the program's implementation and developing Department-wide guidance and standard operating procedures (SOP). The CBSFA SOP will provide guidance for how the DLNR and communities work together and communicate to designate and manage CBSFAs. In addition, a DLNR guidance document for CBSFA designation has been created to clarify ambiguous language in the authorizing statute and provide guidelines to assist the DLNR in evaluating CBSFA proposals. The guidance document will supplement the CBSFA SOP, which together will help the Department overcome the challenges that have hindered the statute's implementation.

#### PURPOSE

With DLNR's increased support for community-based marine co-management, implementation of the CBSFA program is making headway, as evidenced by the recent approval of Hā'ena's rules for public hearing. Additionally, through the creation of the CBSFA SOP and departmental guidance document, we hope to lay the groundwork for a permanent and institutionalized community-based marine co-management program within the DLNR. In so doing, CBSFAs will become a means promote the Department's mission to enhance, protect, conserve and manage Hawaii's unique and limited natural, cultural and historic resources held in public trust for current and future generations.

This submittal is a non-decision-making item intended to provide you with a historical overview and update on the progress being made to implement the Department's Community-based Subsistence Fishing Areas (CBSFAs) under Hawai'i Revised Statute § 188-22.6. In a few weeks, DAR will present the proposed CBSFA guidance document for departmental approval. In the meantime, please do not hesitate to contact us if you have any further questions or concerns. Inquiries and comments can be addressed to Erin Zanre, DAR CBSFA Planner, at (808) 587-0104 or via email at [erin.zanre@hawaii.gov](mailto:erin.zanre@hawaii.gov).


Respectfully submitted,



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FRAZER MCGILVRAY, Administrator  
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



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WILLIAM J. AILĀ, JR., Chairperson  
Board of Land and Natural Resources