

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

October 23, 2015

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

REQUEST FOR APPROVAL OF A PERMIT APPLICATION FOR MR. JAMES K. MAWAE
FOR NETTING ACTIVITIES WITHIN AREA 1A ONLY, IN KAUNAKAKAI HARBOR,
MOLOKAI (10/23/2015 – 9/30/2016); AND REQUEST TO DELEGATE TO THE
CHAIRPERSON THE AUTHORITY TO APPROVE FUTURE KAUNAKAKAI HARBOR
FISHERIES MANAGEMENT AREA NETTING PERMITS

This is a request for the Board to issue a permit for the use of nets within Area 1A of the Kaunakakai Harbor Fisheries Management Area (FMA), Molokai.¹ HAR §13-56-2 prohibits the use of nets within Area 1A of the Kaunakakai Harbor FMA, except by a permit issued by the Board. This rule was developed to reduce conflicts between user groups, i.e. between net fishers and pole-and-line fishers who frequent the harbor.

Pursuant to HAR §13-56-3(a)(3), the applicant proposes to use nets to harvest primarily big-eye scad or akule, known to school within the harbor areas. See application attached as Ex. 1. This permit is intended to cover all activities necessary to conduct akule netting operations within Zone 1A, Kaunakakai Harbor. In accordance with DLNR permit conditions, netting operations would only be conducted during day light hours with prior clearance from the State Department of Transportation (DOT), which has authority over Kaunakakai Harbor, and in Area 1A only. Restricting netting activities to Zone 1A provides a buffer zone to minimize conflicts between the permittee and pier fishers.

The akule fishery is considered to be one of the more sustainable fisheries in the State with no known resource threat of overfishing. The permit is proposed to become effective on the date of approval by the Board, signature by its Chairperson, and approval from the State DOT, and would remain in effect until September 30, 2016.

The Division of Aquatic Resources (DAR) further requests that the authority to approve any future Kaunakakai Harbor FMA netting permits be delegated to the Chairperson. This would allow applicants to obtain permits in a more timely manner without having to wait for a scheduled Board meeting.

RECOMMENDATIONS:

That the Board:

¹ Please see the map at the end of Hawaii Administrative Rules (HAR) Chapter 13-56, Kaunakakai Harbor, Molokai, which is attached as Exhibit 2.

1. Approve the permit for Mr. James K. Mawae, for net use within Area 1A only, Kaunakakai Harbor, Molokai (10/23/2015 – 9/30/2016); and
2. Delegate to the Chairperson the authority to approve any future Kaunakakai Harbor FMA netting permits.

Respectfully submitted,



ALTON MIYASAKA,
Acting Administrator

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson

Attachments:

- Ex. 1 – Application and Permit (redacted)
- Ex. 2 – HAR Chapter 13-56

State of Hawaii
Department of Land & Natural Resources
DIVISION OF AQUATIC RESOURCES
1151 Punchbowl Street, Room 330
Honolulu, Hawaii 96813

Permit No.: _____
Date of Issue: _____
Expiration Date: _____

APPLICATION AND PERMIT FOR THE USE OF NETS (OTHER THAN THROWNETS AND DIPNETS)
WITHIN AREA 1A ONLY OF THE KAUNAKAKAI HARBOR MARINE FISHERIES MANAGEMENT
AREA, ISLAND OF MOLOKAI

The Board of Land and Natural Resources, in conformity with Section 13-56-3, Hawaii Administrative Rules (attached), and all other applicable laws, hereby grants permission for the use of nets (other than thrownets and dipnets) within Area 1A of the Kaunakakai Harbor Marine Fisheries Management Area, to:

JAMES K MAWAE JR CAPTAIN HOBAMA
NAME (Last, First, Initial) TITLE NAME OF VESSEL

ADDRESS (Street or P.O. Box, City, State, Zip Code) _____
Telephone: Business _____ Residence _____
TYPE OF NET (GILD, PURSE)

and the crew members of the vessel (Name) _____
whose names and signatures appear on page(s) 2 (and 3) of this permit, subject to the following terms and conditions:

1. This permit or any rights hereunder shall not be sold, assigned, conveyed, or otherwise transferred or disposed of and shall be carried aboard the above named vessel during its use.
2. Each use of nets allowed by this permit within Area 1A only must be completed between sunrise/sunset, and only after obtaining prior clearance from the Department of Transportation or its designee.
3. The net shall remain in the water only as long as necessary to catch and remove one load of fish each day between sunrise and sunset.
4. The taking of fish for commercial purposes shall be subject to the commercial marine license requirements of Section 189-2, Hawaii Revised Statutes, and all laws of other County, State and Federal agencies.
5. The permittee shall pay for or replace any property damage or personal injury, arising from the use of this permit.
6. Any cost incurred in the form of employee overtime, equipment use or other expenses associated with the enforcement of the provisions of the permit or cost to scheduled commercial vessels resulting from delays caused by the principal permittee shall be borne by the permittee.
7. The permittee shall at all times with respect to the activities allowed by this permit, use due care for public safety and agrees to defend, hold harmless and indemnify the property damage, personal injury or death, arising on or within or adjacent to the Kaunakakai Harbor Marine Fisheries Management Area.
8. The principal permittee shall return this permit to the Division of Aquatic Resources within 10 days after the expiration date.
9. The principal permittee shall allow officials of the Departments to examine the permit and all records, including but not limited to, the log of activities and catch records. Furthermore, the principal permittee shall provide information as requested by the Departments relating to fishing with nets within the Marine Fisheries Management Area.
10. The Board of Land and Natural Resources reserves the right to deny any Application for any violation or non-compliance of any law or rule of the Department and the Department of Transportation.

- 11. The Board of Land and Natural Resources or the Department of Transportation may revoke this permit at any time, for reasons that include violation of any law or rule of the Department or the Department of Transportation.
- 12. Violation of any term or condition of this permit shall be grounds for immediate cancellation of this permit and violators may be subject to penalty provisions as provided for in Section 13-56-4, Administrative Rules.

We, the undersigned, have read, understand and hereby agree to abide by the conditions stipulated in this permit.

JAMES K MAWAE JR	<i>[Signature]</i>	5726	2-31-15
PRINCIPAL PERMITTEE	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	[Redacted]
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	7/31/15
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	7/31/15
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	7/31/15
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	9-01-15
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	7/31/15
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	07-31-15
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	07/31/15
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	7-31-15
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	2-31-15
Print Name	Signature	CM License No.	Date
[Redacted]	[Redacted]	[Redacted]	7-30-15

Chairperson
Board of Land and Natural Resources

APPROVED / DISAPPROVED

Director
Department of Transportation

attach.: Chapter 56

cc: DOCARE
Fisheries

(4/26/91)

HAWAII ADMINISTRATIVE RULES
DEPARTMENT OF LAND AND NATURAL RESOURCES
SUBTITLE 4 FISHERIES
PART II MARINE FISHERIES MANAGEMENT AREAS
CHAPTER 56
KAUNAKAKAI HARBOR, MOLOKAI

- §13-56-1 Definitions
- §13-56-2 Prohibited activities
- §13-56-3 Permitted activities
- §13-56-4 Penalty

§13-56-1 Definitions. As used in this chapter, "Kaunakakai Harbor" means the harbor situated at Kaunakakai, island of Molokai, Hawaii, with portions of the commercial harbor designated "Area 1A" and "Area 1B" separated by a line extending from the Channel Range Lights, and portions of the small craft harbor designated "Area 2" bounded by lines as delineated on the "Map of Kaunakakai Harbor, Molokai 10/27/89" at the end of this chapter which is made part of this section. [Eff: DEC 8 1990] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

§13-56-2 Prohibited activities. No person shall engage in the following activities within Kaunakakai Harbor:

- in "AREA 1A" - Use any type of fishing nets or obstruct passage of vessels, except as provided in section 13-56-3(a), "Area 1A;"
- in "AREA 1B" - Use any type of fishing nets except thrownets; and
- in "AREA 2" - Use any type of fishing nets, except a handheld net as provided in section 13-56-3(a), "Area 2," (2). [Eff: DEC 8 1990] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

§13-56-3 Permitted activities. (a) A person may engage in the following activities, subject to applicable laws and rules within Kaunakakai Harbor:

- in "AREA 1A" - (1) Fish with thrownets or poles

- and lines;
- (2) With a bait license issued by the department of land and natural resources, fish with small mesh nets to take any baitfish for which open season is declared, for bait purposes only;
- (3) Fish with nets, subject to the following conditions
 - (A) The person must possess a permit from the board of land and natural resources with terms and conditions necessary; and
 - (B) The person must have prior clearance from the department of transportation's authority over Kaunakakai Harbor, any time a fishing net or nets are set, and
 - (C) At night (between sunset and the following sunrise), nets shall not be set (put into the water), nor shall any net be allowed to remain in the water except during active unloading of fish from that net.

in "AREA 1B" -

Fish with thrownets or poles and lines;

in "AREA 2" -

- (1) Fish with poles and lines, and
- (2) Use a hand-held net no longer than three feet (0.92 meter) in any dimension to take shrimp or to land fish already hooked.

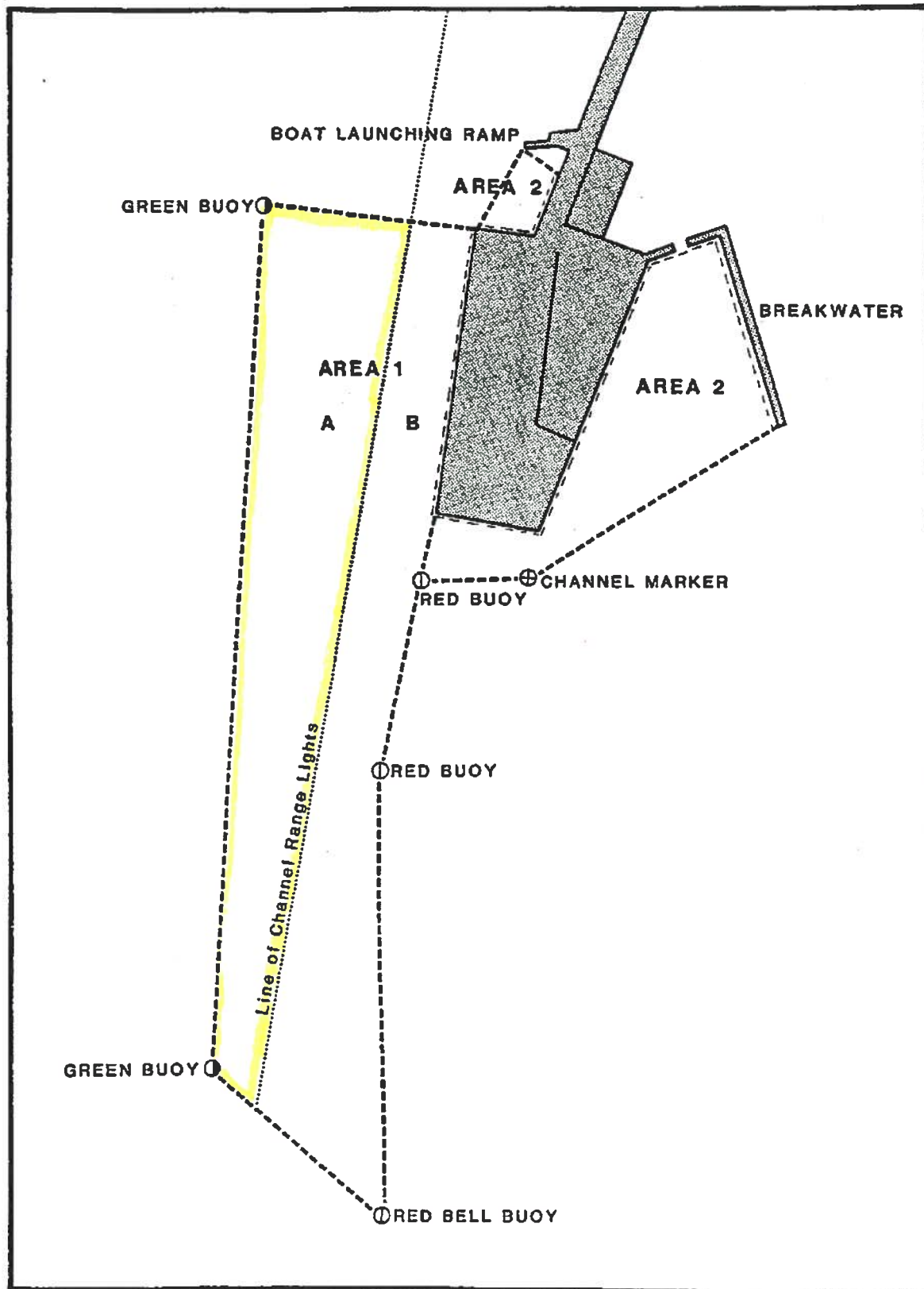
(b) The department may issue permits to engage in activities otherwise prohibited by law or section 13-56-2 for scientific, propagation, or other purposes as provided by law.

(c) The board may revoke any permit for any infraction of the terms and conditions of the permit; and a person whose permit is revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation as provided by law. [Eff: DEC 8 1990] (Auth: HRS §§187A-

5, 188-53) (Imp: HRS §§187A-5, 187A-6, 188-45, 188-53)

§13-56-4 Penalty. Any person violating the provisions of this chapter, or the terms and conditions of any permit issued as provided by this chapter, shall be punished as provided by section 188-70, Hawaii Revised Statutes. [Eff: DEC 8 1990] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-13, 188-70)

§13-56-5 Harbor use priority. Nothing in this chapter shall be interpreted as allowing, within any portion of Kaunakakai Harbor activities which may be otherwise prohibited by law or by rules of the department of transportation. [Eff: DEC 8 1990] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)



Map of Kaunakakai Harbor, Molokai 10/27/89