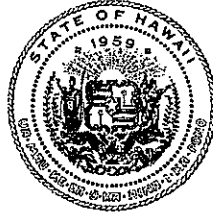
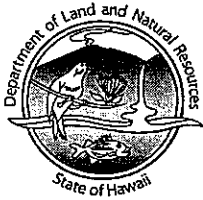


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the House Committee on  
WATER, LAND & OCEAN RESOURCES**

**Monday, January 30, 2012  
9:15 AM  
State Capitol, Conference Room 325**

**In consideration of  
HOUSE BILL 2590  
RELATING TO AQUATIC RESOURCE VIOLATIONS**

House Bill 2950 seeks to provide for transformative administrative penalty alternatives, and for an enhanced collection mechanism for outstanding fines and penalties resulting from aquatic resource violations. The Department of Land and Natural Resources (Department) strongly supports this Administration measure.

For many years, the Department has received numerous criticisms relating to the perceived lack of enforcement capacity for its aquatic resource laws. Accordingly, the Department has recently made substantial efforts to improve the capacity of the Department's Division of Conservation and Resources Enforcement ("DOCARE") to better monitor, educate, and encourage compliance with aquatic resources regulations in the field.

However, it has become apparent that the functions of natural resources law enforcement – including deterrence, rehabilitation, restoration, and providing the assurance of compliance necessary for community engagement in management strategies – cannot be properly fulfilled without addressing issues arising out of a nearly exclusive reliance on the criminal justice system.

This Administration measure therefore provides the tools necessary for the Department to more consistently, efficiently, and appropriately address aquatic resource violations through the expanded use of its civil, non-criminal administrative enforcement process. The express authority to apply transformative penalties through natural-resources related community service will also provide a unique opportunity to turn poachers into stewards and advocates for our nearshore aquatic resources, as demonstrated in a variety of other jurisdictions.

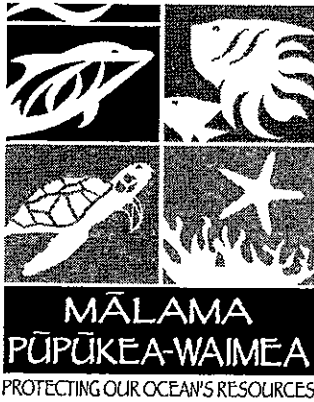
WILLIAM J. AILA, JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAAHOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

The Department therefore strongly supports this opportunity to take a significant step forward in fulfilling its responsibilities to conserve and manage the nearshore aquatic resources of the State.



Emailed Jan 29, 2012 to WLOtestimony@Capitol.hawaii.gov

Testimony for the House Committee on Water Land & Ocean Resources  
Hearing on HB2590  
Jan. 30, 2012  
9:15 am Room 325

Dear Chair Chang, Vice Chair Har, and Members of the Committee:

Mālama Pūpūkea-Waimea **SUPPORTS HB2590** the ABOUTFACE bill ("Authorizing the Board to Use Transformative, Fair, and Consistent Enforcement").

Mālama Pūpūkea-Waimea (MPW) is a North Shore community group whose mission is to "to replenish and sustain the natural and cultural resources of the Pūpūkea and Waimea Ahupua'a for present and future generations through active community stewardship, education, and partnerships."

For the past seven years, MPW has focused its successful volunteer outreach and community education programs on protecting the Marine Life Conservation District (MLCD) at Pūpūkea-Waimea, including Shark's Cove, Three Tables, and Waimea Bay.

DOCARE is a vital partner with MPW in our community stewardship efforts under the statewide Makai Watch Program. Strengthening DOCARE's enforcement programs is critically important to protecting our precious ocean resources.

**Please support DOCARE and HB2590.**

Mahalo,

Denise Antolini, President  
MPW Board of Directors

---

**Mālama Pūpūkea-  
Waimea**

Post Office Box 188  
Hale'iwa, HI 96712

**Board of Directors**

*Denise Antolini*

*John Cutting*

*Bob Leinau*

**Staff Members**

*Drew Wheeler*

*Kirsten Bluehdorn*

*Jenny Yagodich*

Federal 501(c)(3) FEIN27-0855937  
State of Hawaii Non-Profit  
GET W90711385-01

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Ocean Tourism Coalition

*The Voice for Hawaii's Ocean Tourism Industry*  
1188 Bishop St., Ste. 1003  
Honolulu, HI 96813-3304  
(808) 537-4308 Phone (808) 533-2739 Fax  
timlyons@hawaiiantel.net

Testimony to the Committee on Water Land Oceans  
Monday, January 30; 9:15 a.m.  
Conference Room 325

### **Speaking in Support**

RE: HB 2590

Chair Representative Chang, Vice Chair Representative Har and Members of the  
Water, Land, Oceans Committee:

My name is James E. Coon, President of the Ocean Tourism Coalition.  
The OTC represents over 300 small ocean tourism businesses state wide.

We support the intent of HB 2590 to provide penalty alternatives and an  
enhanced collection mechanism for outstanding fines and penalties.

Thank you for the opportunity to submit testimony. If you have any questions,  
please contact me at 808-870-9115.

Sincerely,

James E. Coon, President

Testimony of The Nature Conservancy of Hawai'i  
Supporting H.B. 2590 Relating to Aquatic Resource Violations  
House Committee on Water, Land & Ocean Resources  
Monday, January 30, 2012, 9:15AM, Room 325

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*The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.*

---

The Nature Conservancy supports H.B. 2590.

There is widespread agreement amongst a variety of stakeholders that Hawaii's fragile environment is in need of improved compliance, enforcement and prosecution of violations of our State natural resource laws. A 2006 State Auditor's report concludes that DLNR Division of Conservation and Resources Enforcement (DOCARE) officers are spread too thin and lack the equipment they need to do their jobs. In a better economy, the Legislature had been able to support an increase in the number of trained officers and equipment. Not to be deterred by the current tough fiscal climate, DOCARE undertook its own review and strategic planning effort to improve its operational processes. Seeking national law enforcement accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA [www.calea.org](http://www.calea.org)) is an important outcome of that process.

Against this backdrop, a number of communities across the state have been organizing themselves to become more directly involved in the care and management of their natural resources, particularly in coastal and near shore areas. Some communities have partnered with DOCARE to raise awareness of natural resource laws and to improve compliance with those laws. With increased community involvement in marine resource management and enforcement, it will help DLNR, DOCARE, and community-based managers to have additionally flexibility in applying effective civil penalties to justly punish current infractions, effectively deter future violations, and foster greater compliance in the future. H.B. 2590 offers two enforcement strategies with community service and license suspension that can be employed when criminal or financial penalties are ineffective, particularly in an overburdened state court system.

Thank you for this opportunity to offer our support for this measure.

BOARD OF TRUSTEES

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# Hui Ho'omalulu i ka 'Āina

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Post Office Box 1045 • Hanalei • Hawaii • 96714

January 27, 2012

Hearing: WLO Room 325 January 30, 2012

## Testimony in Strong Support HB 2590

Aloha Chair Chang and Vice Chair Har and Committee Members,

Hui Ho'omalulu i ka 'Āina is a taro root organization founded in the early 1980's by traditional practitioners of moku Halele'a to address threats and impacts to the natural and cultural resources of Kaua'i. Founded by farmers and fishermen, weavers and hunters, we seek to provide context for issues related to the ecology of our ahupua'a. The organization is an active advocate for those native things and ways that are disappearing. We are not a nonprofit, we are an activist organization. We do not whine and wait, we act.

Our reefs and forests are vital to our well being as individuals and communities. As participants in the Mauka Makai Watch Program, we **strongly support HB 2590 because it will greatly enhance the state's capacity to enforce its aquatic resources laws.** We know that many former poachers have become some of our most ardent resource stewards

- The **ABOUT FACE ACT** will enable DLNR and DOCARE to effectively apply non-criminal monetary penalties through civil enforcement.
- The **ABOUT FACE Act** provides the BLNR the ability to apply natural-resources community service in lieu of criminal penalties, providing a unique opportunity to transform former poachers into stewards of our aquatic resources. We currently utilize Community Service assignees in our monitoring program with great success.
- The meaningful civil fines provided for in administrative enforcement by the BLNR will not only provide a much more effective deterrence to resource violations, but may further **mitigate the costs** of resources enforcement currently lost in the criminal justice process.
- **This bill will provide a huge step forward in fostering community-based fisheries management.** Without a more effective law enforcement process to assure compliance by all stakeholders, community-based fisheries management efforts face considerable difficulties in fostering constructive engagement by users of our nearshore aquatic resources.

Me ka pono,



Makaala Kaaumoana  
Vice Chair

## har2-Samantha

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From: mailinglist@capitol.hawaii.gov  
Sent: Sunday, January 29, 2012 11:42 AM  
To: WLOtestimony  
Cc: wctanaka@gmail.com  
Subject: Testimony for HB2590 on 1/30/2012 9:15:00 AM

Testimony for WLO 1/30/2012 9:15:00 AM HB2590

Conference room: 325  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Wayne Tanaka  
Organization: Fish and Coral Think Tank  
E-mail: [wctanaka@gmail.com](mailto:wctanaka@gmail.com)  
Submitted on: 1/29/2012

### Comments:

To the Honorable Committee Chair Chang, Committee Vice-Chair Har, and members of the House Committee on Water, Land, and Ocean Resources:

The members of the Fish & Coral Think STRONGLY SUPPORT HB2590, or what we call the ABOUT FACE Bill ("Authorizing the Board to Use Transformative, Fair, and Consistent Enforcement"). This bill will remove two significant barriers to the meaningful use of the Board of Land & Natural Resources' administrative civil enforcement authority, and will allow the board to explore enforcement approaches already utilized in many other jurisdictions.

For example, this bill will allow the state of Hawai'i to join many other jurisdictions where civil penalties are substantively used to address natural resource violations, including California, Florida, Texas, South Carolina, Louisiana, Michigan, Washington, and Vermont, among others. In addition, civil penalties have long been utilized by federal agencies tasked with natural resources enforcement, such as the United States Coast Guard and the National Oceanic and Atmospheric Administration.

The specific provision authorizing the imposition of natural-resources related community service as a transformative penalty for resource violations will also allow the Board to utilize an approach already implemented in other jurisdictions, including California, Iowa, Michigan, Minnesota, Oregon, South Dakota, and Washington.

Finally, driver's licensing revocation provisions are used as a compliance measure both locally (by the Child Support Enforcement Agency), and as a penalty for offenses against public property in states including California, Colorado, Idaho, Maine, Maryland, Michigan, Nebraska, Pennsylvania, and Utah.

A more transformative, fair, and consistent resources enforcement system is necessary not only to fulfill the traditional functions of law enforcement, including deterrence, rehabilitation, and restoration, but is also essential to allow fishers and other resource users to more meaningfully engage with the state's aquatic resources management strategies.

Thank you very much for the opportunity to testify on this bill.

Wayne Tanaka, Esq.  
Consultant & Recreational Fisher  
Fish & Coral Think Tank

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, January 29, 2012 8:06 AM  
**To:** WLOtestimony  
**Cc:** octopus@maui.net  
**Subject:** Testimony for HB2590 on 1/30/2012 9:15:00 AM

Testimony for WLO 1/30/2012 9:15:00 AM HB2590

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Rene Umberger  
Organization: For the Fishes  
E-mail: [octopus@maui.net](mailto:octopus@maui.net)  
Submitted on: 1/29/2012

**Comments:**

Aloha Chair Chang and Committee members,

For the Fishes is opposed to HB2590 as currently written. An amendment striking "in lieu of" and making these provisions apply in addition to administrative fines would be more appropriate. Scofflaws performing natural resource community service would need to be closely monitored to insure no further harm is being done. In addition, much stronger deterrents are clearly needed to protect marine resources and this bill does not go far enough in addressing this critical issue.

Mahalo,  
Rene Umberger



har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, January 29, 2012 2:34 PM  
**To:** WLOtestimony  
**Cc:** meleoli@yahoo.com  
**Subject:** Testimony for HB2590 on 1/30/2012 9:15:00 AM  
**Attachments:** MaunaluaFishSurveyExecSummary\_Dec 2011.pdf

Testimony for WLO 1/30/2012 9:15:00 AM HB2590

Conference room: 325  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Carol Wilcox  
Organization:  
E-mail: [meleoli@yahoo.com](mailto:meleoli@yahoo.com)  
Submitted on: 1/29/2012

**Comments:**

Last year Malama Maunalua conducted a survey of knowledgeable Maunalua fishermen. The results of that survey are now available and a summary is attached here. As you can see, these fishermen have identified weak enforcement as a leading cause of the decline of the resources in Maunalua Bay, and are in strong support of effective enforcement.

# MAUNALUA BAY FISHING COMMUNITY ASSESSMENT



*Maunalua Bay fishermen and their catch, circa 1930s. Photo credit: A. Winter Family*

Prepared for:

Mālama Maunalua

By

Kainalu Consulting LLC  
367-C Kapaloala Place  
Honolulu, HI 96813

December 2011

## **Acknowledgments**

We thank the key respondents and community members involved in the fishing survey effort, who shared their insights and deep knowledge of fishing and Maunalua Bay with us. We also thank the Mālama Maunalua community and Makai Watch volunteers for their help in executing this research. This research was supported by a grant from Mālama Maunalua, and we thank Alike Winter, Carol Wilcox and Jennifer Taylor for their support. Any errors or omissions belong to the authors alone. Our team also thanks the National Oceanic and Atmospheric Administration (NOAA) for funding support.

## EXECUTIVE SUMMARY

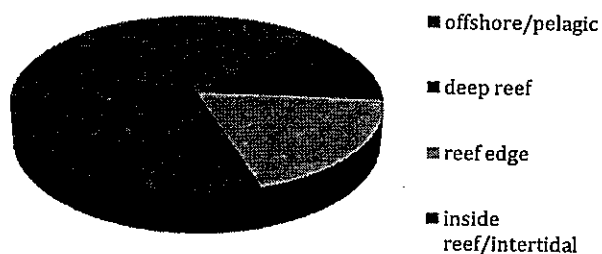
This report describes the results of a community-led survey of Maunalua Bay fishers to quantify their collective knowledge, perceptions and opinions about the condition of the bay and its fisheries. The overarching goal of the research was to assess the fishers' perceptions of the health of the bay and its fisheries, characterize the fishing community and their activities in the bay, and solicit information from the fishing community about recommended actions for the future of the bay, in order to ensure that the fishing community has a voice in future planning or management processes.

A set of commonly employed social science methodologies were utilized to systematically gather social and ecological information about the fishing community in Maunalua Bay and nearby areas. Fishers were identified through a chain referral (or "snowballing") sampling method, and in-depth, face-to-face interviews were conducted with fishers for the study. The primary planning for this research was initiated in 2010, and field research was conducted from January – July 2011.

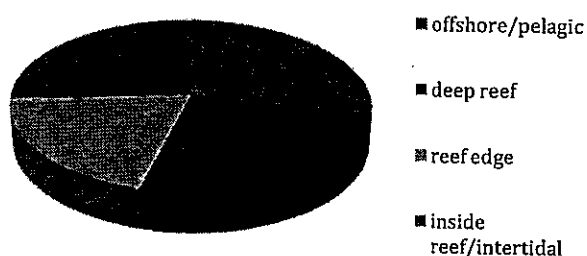
Fifty-eight fishers from Maunalua and surrounding communities were interviewed in the course of this research. The average number of years of experience fishing in Maunalua Bay among respondents was 34.61 years, and many fishers had more than 40+ years fishing in the bay. Five fishers (8.7% of the total interview sample) had 55+ years of fishing experience in the bay. Together this indicates that the respondent pool was primarily comprised of long-time fishers that were experienced and knowledgeable about Maunalua Bay and its fisheries resources.

The fishing community of Maunalua Bay comprises a diverse set of ocean users that access the entire bay and exploit all fisheries habitats from the intertidal to the deep sea. Fishers reported that previously they spent more time fishing the intertidal and inside reef zones that are closer to shore – 55% previously compared with 26% in the present day. (See Figure 4 from report, below, modified to reflect totals for intertidal and inside reef zones.)

**When first started fishing**



**Present Day**

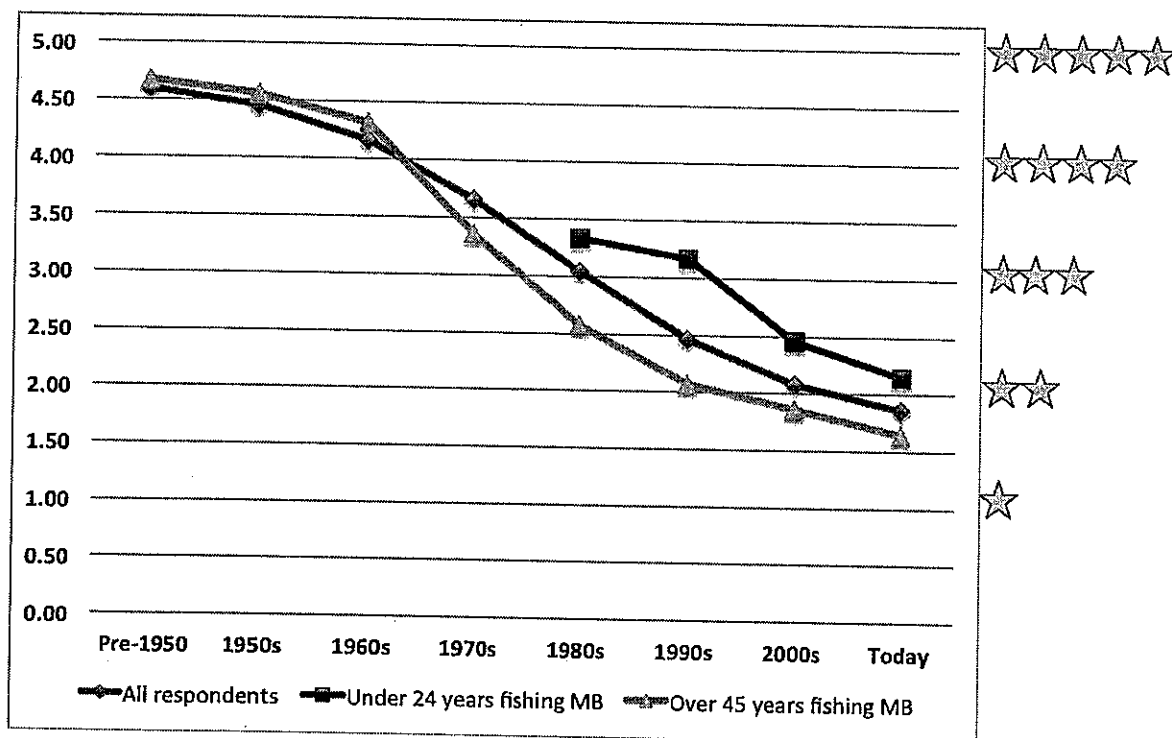


Recreational fishing activities are the most common fishing activities in Maunalua Bay. A diverse set of gears are used in the bay to exploit intertidal, coral reef, coastal pelagic and

pelagic species. While a variety of gear types are used, 75% of respondents reported using spears.

Fisheries catch is primarily utilized for home consumption, but catch is also given away, released and sold. Among respondents, 'part-time' commercial activities comprise a minor aspect of the overall fishery. Among those reporting a portion of the catch sold, selling was a minor part of both the total catch and comprised a minor percentage of their income (<10%). Most seafood that is caught is kept for personal consumption (47.7%) Among all fishers, 29.3% reported holding a commercial license, but just 11.5% of fisheries catch was reported sold.

Among experienced and knowledgeable fishers, there is broad and widespread agreement that fisheries resources and habitats in the bay have declined in terms of abundance and quality (see Figure 11 from report, below).

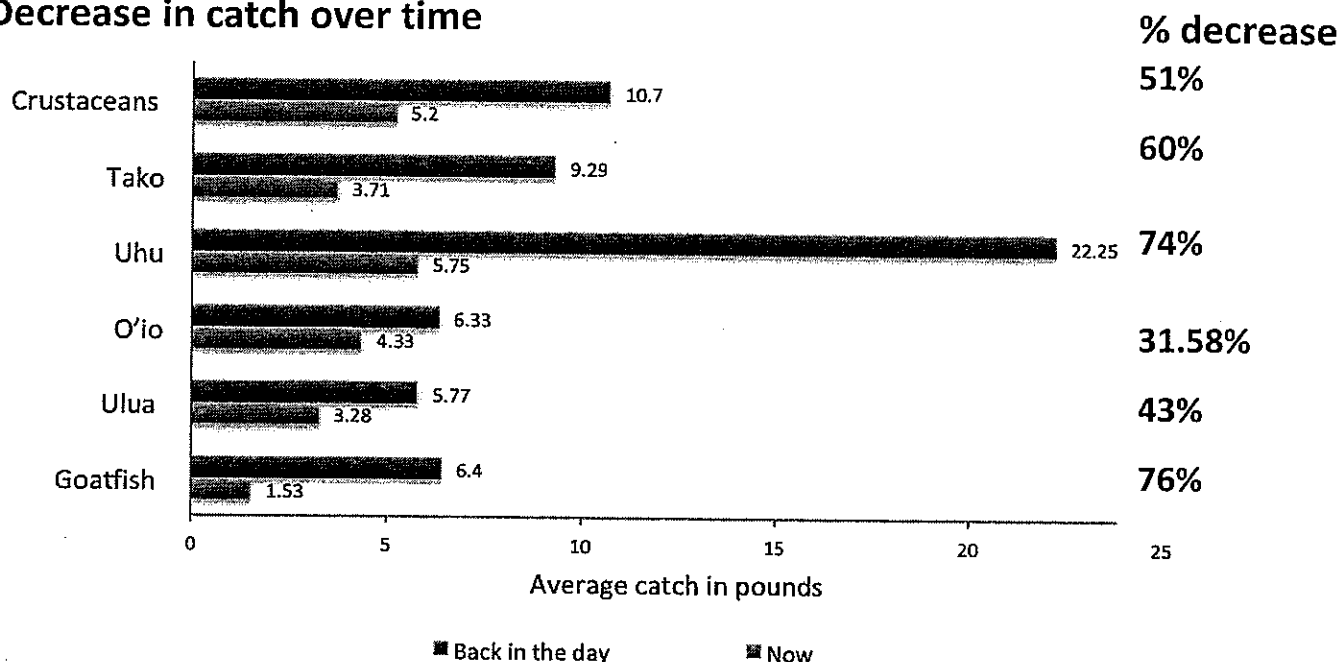


**Health of the bay over time: 4 stars = Healthy, Abundant, Diverse**  
**1 star = severely degraded**

These striking declines, estimated by memory recall for both particular species and particular gears, show that most Maunalua fishers describe healthier and more abundant fishery conditions when they first started fishing as opposed to current conditions. Fishers described major declines in marine resources, habitat quality and increases in human threats to the bay through time. Among experienced fishermen who began fishing the bay prior to the 1970s, the perceptions of decline were more pronounced than fishers whose first association with the bay was recent by comparison.

Current fisheries catches for preferred and commonly sought species have declined 31-76% from catches when fishers first started fishing in the bay. (See Figure 7 from report, below.)

## Decrease in catch over time

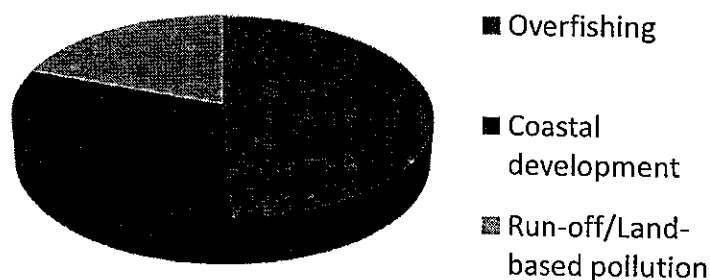


Correspondingly, catch by the most common gear types used in the bay has also declined substantially (13-62%, depending on gear type).

Fishers reported widespread observations about the reduction in the diversity, abundance and size of fish. Fishers described the following fisheries resources as declining: schooling coastal pelagics (e.g. akule, halalu, 'opelu), reef fish, limu, and reef-building corals.

Fishers identified the primary drivers of these changes as: 1) Overfishing; 2) Coastal development; and, 3) Run-off/Land-based pollution. Analyses of qualitative data show that out of 92 descriptions shared by respondents, 40% are attributed to overfishing, 25% discussed coastal development, and 16% identified run-off/land-based pollution. Fishers also described common threats to resources in Maunalua Bay as including: 1) Overfishing; 2) Run-off/Land-based pollution; and, 3) Invasive species. Out of 130 descriptions shared by respondents, 31% are attributed

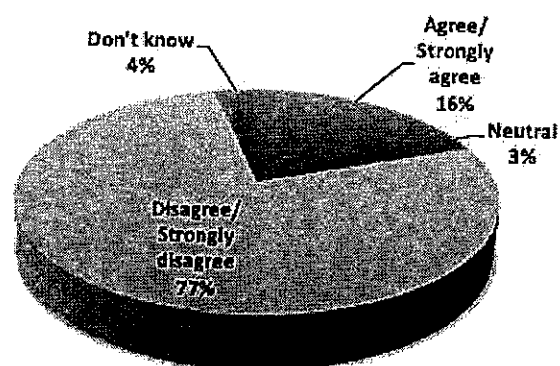
## Drivers of change in Maunalua Bay



to overfishing, 30% discussed run-off/land-based pollution or channelization of streams; 11% discussed invasive species, and 6% mentioned coastal development.

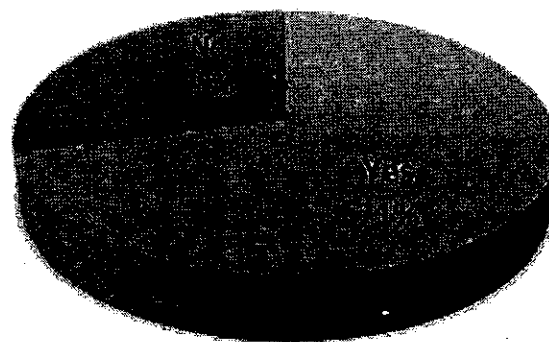
Fishers exhibited a general consensus that enforcement is currently lacking in Maunalua Bay – 77% felt enforcement was insufficient. Interview data show that few fishers have witnessed enforcement personnel or actions in the bay, and many fishers have engaged directly in informal (non-state) enforcement measures, including documenting illegal activities or confronting violators. Although all fishers supported effective enforcement of current regulations (100%), fishers were split on whether or not enforcing current rules/regulations would protect marine resources. Fishers did generally agree, however, that without some kind of change, their grandchildren would not experience an abundant and diverse environment in Maunalua Bay (see section of Figure 12 from report, below).

**If management of the bay were to continue as it is now, my grandchildren will enjoy an abundant and diverse environment:**



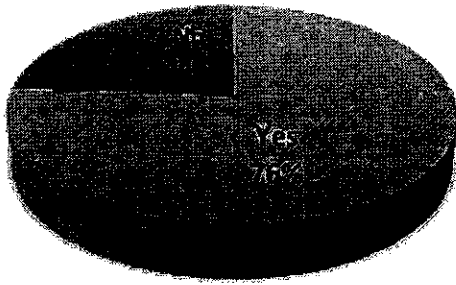
The capacity of the fishing community to engage in stewardship is estimated to be high, based on levels of participation in local organizations, events and meetings on fishing topics and stated willingness to engage in community-based management program (84%). The fishing community voiced support for various management strategies, including more effective enforcement and better management of diverse ocean user activities. More than two thirds – 71% - of fishers support the implementation of a kapu zone/no-take marine protected area in the Maunalua region.

**Would support a protected area in MB, for conservation/education purposes**

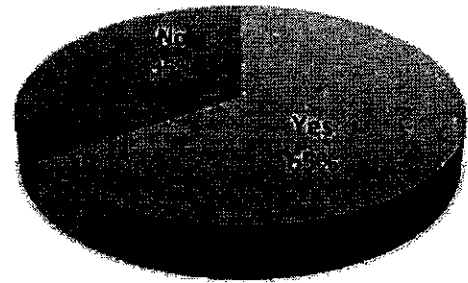


Fishers also indicated support for other conservation measures, including harvest bans for some species (65.5%) and bans on certain types of fishing gear (75.9%). (See sections from Figure 15B in report, above and below.)

Support a ban of certain types of fishing gear



Support a harvest ban on certain species



The fishing community possesses deep ecological knowledge about their community and the environments and resources of the Maunalua Bay area. The knowledge base and capacity of Maunalua Bay fishers represents a significant resource to the community, and it is recommended that fishers be engaged as much as possible in processes focusing on proposed management actions or stewardship programs.

The data presented herein equate to a social and environmental baseline regarding fishing activities, environmental and fishery resource conditions, levels of support for various management strategies and fishing community capacity in Maunalua Bay. This baseline may be useful for developing community-based conservation or stewardship programs, or for fishing groups, individuals or other organizations seeking to understand more deeply the peopled seascape of Maunalua Bay.



### **About this Report**

This report describes the results of a research assessment on the Maunalua Bay fishing community, conducted by a survey team comprised of Makai Watch volunteers and Mālama Maunalua community members. The project, entitled “Maunalua Bay Fishing Community Assessment,” was initiated in fall 2010 and was completed in July 2011. Research activities were conducted by Kainalu Consulting LLC for Mālama Maunalua under an agreement between Tri-Isle Resource Conservation and Development Council, Inc. and Kainalu Consulting LLC, dated 7 February 2011. The research findings presented herein may be used to support Mālama Maunalua’s goals to conserve and restore a healthy and productive Maunalua Bay through collective community kuleana.

Our research involved extensive social science research and analysis, including a review of existing research and an intensive field research component that consisted of interviews with community members, key respondents and expert fishers in the Maunalua area and nearby communities. Pursuant to the scope of work for this project, data analysis activities included: 1) Compiling interview data and providing a quality assessment prior to analysis; 2) Performing a standard set of descriptive statistical analyses on the quantitative interview data; and 3) Reviewing qualitative responses and including an overview or summary of these responses in the final report. These research activities and analyses generated a significant amount of data and information, and the methods for data collection and analysis and results of the research are summarized in this report.

### **Suggested citation:**

Kittinger JN, and DS Kittinger (2011). Maunalua Bay Fishing Community Assessment. A report prepared for Mālama Maunalua. Kainalu Consulting LLC, Honolulu.

### **For further information direct inquiries to:**

John N. (Jack) Kittinger, PhD  
Stanford University  
Center for Ocean Solutions  
Woods Institute for the Environment  
99 Pacific Street, Suite 155A  
Monterey, CA 93940 USA

Phone: +1 808-397-9077  
Email: jkittinger@gmail.com

har2-Samantha

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From: mailinglist@capitol.hawaii.gov  
Sent: Saturday, January 28, 2012 6:37 PM  
To: WLOtestimony  
Cc: alika@malamamaunalua.org  
Subject: Testimony for HB2590 on 1/30/2012 9:15:00 AM

Testimony for WLO 1/30/2012 9:15:00 AM HB2590

Conference room: 325  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Alik Winter  
Organization: Malama Maunalua  
E-mail: [alika@malamamaunalua.org](mailto:alika@malamamaunalua.org)  
Submitted on: 1/28/2012

Comments:

The About Face Act is very important to the State of Hawaii. Commercial and recreational fisherman unanimously support an effective enforcement effort.

Mahalo NUI!

Alik Winter/ Makai Watch Coordinator  
Malama Maunalua



January 28, 2012

*Directors*

*Mitch D'Olier  
Amy Monk  
Michael B. Pietsch  
Jennifer Taylor  
Laura Thompson  
Jean Tsukamoto  
Carol Wilcox*

To: Representative Jerry L. Chang, Chair  
Representative Sharon E. Har, Vice Chair and  
Members of the House Committee on Water, Land and Ocean Resources

From: Amy Monk, Member, Board of Directors, Malama Maunalua

Re: HB 2590 Relating to Aquatic Resource Violations  
Hearing: Monday, January 30, 2012, 9:15 a.m., Conference Room 325

Position: STRONG SUPPORT

Thank you for hearing this bill and for allowing me to present testimony today, in strong support of HB 2590, which provides for administrative penalties for aquatic resource violations, providing an effective alternative to enforce existing laws which protect threatened or endangered species.

The mission of Malama Maunalua is to conserve and restore a healthy and productive Maunalua Bay through community kuleana. Based in East Honolulu, Malama Maunalua was founded in 2005. We found supportive and cooperative partners in other environmental organizations, including the Nature Conservancy and NOAA. To date over 3,000 volunteers have joined us in Maunalua Bay restoration activities, principally the clearing of invasive seaweed, but also reducing land-based pollution and runoff, and restoring native aquatic habitat. Restoring habitat is vital to protecting and encouraging the restoration of native fish, shellfish, limu, and other aquatic resources. We are here because HB 2590 will support our mission to restore the health of Maunalua Bay. It will do the same for other coastal areas that are threatened by illegal activities.

There are very few Division of Conservation & Resources Enforcement ("DOCARE") officers and their area of responsibility is the entire State of Hawaii, from our coastal waters to our forests on the mountain ranges and the streams in the valleys. We know their resources are stretched very thin. A successful resource violation prosecution may take hours or days to properly investigate and document. Moreover, it is understandable, given the priorities of an overburdened justice system, that the limited resources of the county prosecutors' offices, the state public defender's office, and the criminal court system would focus on cases of assault or drug trafficking ahead of the prosecution of illegal fish nets or taking undersized fish.

If enforced, current laws are adequate to protect Hawai'i's aquatic resources, but the fact that there are very few prosecutions means there is no effective deterrent to the violation of existing laws. We believe civil fines levied by BLNR administrative enforcement, or effective non-criminal monetary penalties, will provide a more effective deterrent to



violators. At the same time, it may mitigate the costs of resources enforcement currently lost in the criminal justice process.

It is for these reasons that we support legislation that would:

1. Give the Board of Land & Natural Resources ("BLNR") or an authorized hearings officer the authority to impose natural resources-related community service in lieu of, or in addition to, civil fines for aquatic resources violations; and
2. Provide a process by which the BLNR may suspend or revoke the driver's license of violators who refuse to comply with levied fines or mandatory community service.

We believe that giving DLNR additional tools to protect Hawai'i's natural resources will discourage poaching and illegal harvest of our aquatic resources. Penalties which have some bite, either financial penalties, community service, or the loss of a driver's license, will give violators disincentives to breaking existing laws -- laws which are often violated with impunity. We urge the committee to pass this measure.

har2-Samantha

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From: mailinglist@capitol.hawaii.gov  
Sent: Sunday, January 29, 2012 8:37 AM  
To: WLOtestimony  
Cc: robertw@snorkelbob.com  
Subject: Testimony for HB2590 on 1/30/2012 9:15:00 AM

Testimony for WLO 1/30/2012 9:15:00 AM HB2590

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Robert Wintner  
Organization: The Snorkel Bob Foundation  
E-mail: [robertw@snorkelbob.com](mailto:robertw@snorkelbob.com)  
Submitted on: 1/29/2012

Comments:

I oppose HB 2590. Only a DLNR run by a commercial fisherman would promote this bill that would give poachers community service instead of fines or jail time. Poachers are scofflaws willing to kill nature for personal gain. Please discourage them with meaningful fines and jail time.



## CONSERVATION COUNCIL FOR HAWAII

Testimony Submitted to the House Committee on Water, Land, and Ocean Resources

Hearing: Monday, January 30, 2012 9:15 A.M.

Conference Room 325

In support of HB 2590 Relating to Aquatic Resource Violations

Aloha. The Conservation Council for Hawai'i supports HB 2590. This bill will greatly enhance the State's capacity to enforce its aquatic resources laws by providing the Board of Land and Natural Resources with the authority to use its civil administrative enforcement process in a more efficient, transformative, and consistent manner. This bill allows the BLNR to impose natural-resources related community service as a civil penalty in lieu of, or in addition to, monetary administrative fines, and further provides for a process by which the BLNR may place a stopper on a poacher's driver's license if he or she refuses to perform such community service or pay such administrative fines within the timeline set by the BLNR.

HB 2590 provides is a creative and effective process to address aquatic resource violations. The process is fair, consistent, and efficient. We attach a one-page sheet on why HB 2590 is important and worthy of your consideration and support.

Mahalo nui loa for the opportunity to testify.

Sincerely,

Marjorie Ziegler



**Hawai'i's Voice for Wildlife – *Ko Leo Hawai'i no na holoholona lohiu***

Telephone/Fax 808.593.0255 • email: [info@conservehi.org](mailto:info@conservehi.org) • web: [www.conservehi.org](http://www.conservehi.org)

P.O. Box 2923 • Honolulu, HI 96802 • Office: 250 Ward Ave., Suite 220 • Honolulu, HI 96814

President: Hannah Springer \* Vice-President: Julie Leialoha \* Treasurer: Rick Barboza \* Secretary: Maka'ala Ka'aumoana

Directors: Lida Pigott Burney \* Koalani Kaulukukui \* Robin Kaye

Executive Director: Marjorie Ziegler

### Why HB 2590 Is Important

1. **HB 2590 will greatly enhance the state's capacity to enforce its aquatic resources laws.** Resource managers, scientists, conservationists, fishers, and policy experts all agree that the state's enforcement capacity presents a significant barrier to more effective management efforts. By resolving legitimate concerns with the civil administrative enforcement process, HB 2590 will pave the way for the Department of Land and Natural Resources to effectively apply non-criminal monetary penalties through civil enforcement – a more efficient, effective, and appropriate process to address resource violations.
2. **The criminal justice system does not address resource violations consistently or with the appropriate level of concern.** Currently, the DLNR's exclusive reliance on the criminal justice system and the county prosecutors means that the relatively few aquatic resource cases are lumped in with hundreds of daily, more commonly encountered and easily understood violations, i.e. assaults, driving violations, drug possession, etc. As a result, penalties are inconsistent and often inappropriate, frustrating both managers and community stakeholders. Civil administrative enforcement before the Board of Land and Natural Resources will ensure that resource violations are dealt with consistently and with appropriate seriousness, without resorting to the criminal justice system.
3. **Transformative penalties provide an effective alternative to criminal liability.** In many cases, former poachers have become some of the most outspoken and effective stewards of the natural environment, if given the chance to understand their potential value in the rehabilitation of resources impacted by human activity. HB 2590 provides the BLNR the ability to apply natural-resources community service in lieu of criminal penalties, providing a unique opportunity to transform former poachers into stewards of our aquatic resources.
4. **HB 2590 will save the state money.** Division of Conservation & Resources Enforcement officers dedicate their careers to protecting our natural resources, through compliance and enforcement actions in the field. However, officers are often frustrated with the minimal fines that result from aquatic resource cases that may take hours or even days of their time to properly investigate and document; cases that also consume considerable resources in the county prosecutors' offices, the state public defender's office, and the criminal court system. The meaningful civil fines provided for in administrative enforcement by the BLNR will not only provide a much more effective deterrence to resource violations, but may further mitigate the costs of resources enforcement currently lost in the criminal justice process.
5. **Driver's licensing revocation will give teeth to resources enforcement, without resorting to civil litigation or the criminal process.** A major obstacle to administrative civil enforcement has been the lack of effective remedies for violators who ignore levied fines, as the only current remedy is the initiation of costly civil litigation. HB 2590 will grant DLNR the ability to revoke a poacher's driver's license if they refuse to cooperate with levied fines or natural resources-related community service, providing a relatively efficient yet strong incentive for violators to take these fines seriously.
6. **This bill will provide a huge step forward in fostering community-based fisheries management.** Without a more effective law enforcement process to assure compliance by all stakeholders, community-based fisheries management efforts face considerable difficulties in fostering constructive engagement by users of our nearshore aquatic resources. By providing a more consistent and effective process to address resource violations and foster greater compliance with the law, this bill may greatly encourage the formation of community-based management strategies, as individuals will be much more likely to participate in management efforts when assured that others will comply.
7. **This bill may provide a model for an environmental court.** Many other jurisdictions have established a variety of "environmental courts," or tribunals specifically tasked with adjudicating environmental cases. The success of these institutions has prompted numerous attempts to establish an environmental court in Hawai'i; however, the magnitude and uncertainties of these previous proposals have effectively deterred their adoption. Giving the BLNR the tools it needs to explore administrative enforcement in the aquatic resources context may be a first, much more modest step towards exploring how an environmental tribunal may greatly enhance Hawai'i's capacity to defend and protect our natural and cultural resources.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 27, 2012 10:10 PM  
**To:** WLOtestimony  
**Cc:** scrawford2@aol.com  
**Subject:** Testimony for HB2590 on 1/30/2012 9:15:00 AM

Testimony for WLO 1/30/2012 9:15:00 AM HB2590

Conference room: 325  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Sarah Crawford  
Organization: Individual  
E-mail: [scrawford2@aol.com](mailto:scrawford2@aol.com)  
Submitted on: 1/27/2012

**Comments:**

I live in the North Kona district of the Big Island. Please support this bill. We cannot protect our ocean resources without enforcement. Thank you.



## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, January 28, 2012 3:57 PM  
**To:** WLOtestimony  
**Cc:** donna@goodale.org  
**Subject:** Testimony for HB2590 on 1/30/2012 9:15:00 AM

Testimony for WLO 1/30/2012 9:15:00 AM HB2590

Conference room: 325  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Donna Rodes Goodale  
Organization: Individual  
E-mail: [donna@goodale.org](mailto:donna@goodale.org)  
Submitted on: 1/28/2012

### Comments:

The economic argument: If we don't preserve the unique Hawaiian environment, the visitor industry will suffer greatly. Tourists come to Hawaii for our beautiful environment. If the environment is allowed to degrade, there will be a point at which the tourists no longer come. The ecological argument: If we don't preserve our forests, we won't have water shed to hold and supply our water; we won't have healthy reefs to feed our families and/or earn a living; we won't have a healthy environment in which to live, play and raise our families. Please provide the funds to enforce the laws that protect our environment. Our lives and livelihood depend on it. Thank you.

Chairs Jerry L. Chang and Sharon E. Har  
Members  
House Committee on Water, Land, and Ocean Resources

Dear Chairs and Members:

**In Support of HB2590: Relating to Aquatic Resource Violations**

Thank you for hearing this bill and providing the public with an opportunity to be heard.

We hoā'āina get frustrated when the resources we know how to protect still cannot be protected because the system isn't set up to handle. We need to make government work for us. This bill gets us started, with several aspects that are necessary. We will still have work to do getting it all put together, but at least we have the batteries to charge them up when ready.

Please support this bill and put us to work making a system that can help keep Hawaii survivable through this century, healthy, and a loving place for our moopuna.

Me ke aloha ha'aha'a,  
Charley Ice  
Waimalu, 'Aiea, O'ahu

January 29, 2012

To whom it may concern:

Taking care of our oceans by enabling and enhancing our aquatic resources' enforcement capacity is the same as ensuring the longevity of the human race. As an entity made up of primarily water, I urge your office to take this tremendous step forward to address the issue of empowering aquatic resources enforcement capacity. The best analogy of our connection to the oceans: the damage inflicted, the ongoing neglect, and the misleading persuasion of lobbyists has become a stage four cancer the collective public cannot delay or ignore. The environmental crisis is fast approaching the point of no return.

Why the ABOUT FACE Act (HB2590) is important:

1. This bill resolves legitimate concerns with the civil administrative enforcement process. ABOUT FACE will pave the way for the Department of Land and Natural Resources ("DLNR") to apply non-criminal monetary penalties through civil enforcement. It's more efficient, effective, and appropriate.
2. DLNR's exclusive reliance on the criminal justice system and county prosecutors means that a small number of aquatic resource cases are lumped in with much larger numbers of familiar assaults, driving violations, drug possession, etc. Resource violation penalties are inconsistent and inappropriate, frustrating everybody. BLNR civil enforcement will ensure that resource violations are dealt with consistently and with appropriate seriousness.
3. ABOUT FACE lets BLNR apply natural-resources community service in lieu of criminal penalties. Community service provides an effective alternative to criminal liability. Former poachers have become outspoken and effective stewards, once given the chance to understand.
4. This bill will save the state money. Division of Conservation & Resources Enforcement ("DOCARE") officers are often frustrated with the minimal fines that result from aquatic resource cases that may take hours or days of their time to investigate and document. Such cases consume resources of prosecutors', public defenders and courts. Civil fines can be large enough to deter resource violations and mitigate criminal justice costs.
5. ABOUT FACE grants DLNR the ability to revoke a poacher's driver's license if they refuse to pay fines or perform community service. Revoking driver's licenses gives BLNR teeth without resorting to litigation or courts. The only current remedy is slow and expensive civil litigation.
6. The bill helps foster constructive engagement by users of our near-shore aquatic resources. Making enforcement work encourages the community to watch for and report violations, which can lead to a greater sense of responsibility and commitment.
7. Many other jurisdictions have established successful "environmental courts," specifically tasked with handling environmental cases. Their success prompted attempts to do so in Hawai'i; however, the uncertainties of these previous proposals have effectively deterred their adoption.

Civil enforcement may be a first look at how an environmental tribunal could help Hawaii defend and protect our natural and cultural resources.

Your attention and avocation are appreciated.

Shana Okuda  
PO Box 1451  
'Aiea, HI 96701

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 27, 2012 1:12 PM  
**To:** WLOtestimony  
**Cc:** tinaowens@hawaii.rr.com  
**Subject:** Testimony for HB2590 on 1/30/2012 9:15:00 AM

Testimony for WLO 1/30/2012 9:15:00 AM HB2590

Conference room: 325  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Christine Owens  
Organization: Individual  
E-mail: [tinaowens@hawaii.rr.com](mailto:tinaowens@hawaii.rr.com)  
Submitted on: 1/27/2012

Comments:

Our natural resources enforcement abilities must be considerably enhanced or we will lose much of what is precious to us. I fully support the bill as written. Please pass this bill.  
Mahalo,

Tina Owens

# LATE TESTIMONY

January 29, 2012

To: Committee on Water, Land, & Ocean Resources  
Rep. Jerry L. Chang, Chair/ Rep. Sharon E. Har, Vice Chair

By: Joanne Sheng, Consultant, Fish and Coral Think Tank (FACTT); Law student at the William S. Richardson School of Law

Re: HB 2590: RELATING TO AQUATIC RESOURCE VIOLATIONS

Dear Chairs and Committee Members,

I am writing in strong support of HB 2590. I am a third-year law student at the William S. Richardson School of Law. Over the past two years, I have had the unique opportunity to intern at two divisions within DLNR: the Division of Aquatic Resources (DAR) and the Division of Conservation and Resource Enforcement (DOCARE). My two internships at DLNR primarily consisted of researching pitfalls in the enforcement chain for aquatic resources laws. This research culminated in a thesis paper which (1) outlines the reasons why Hawaii's current natural resource enforcement system is ineffective and (2) identifies practical steps towards drastically improving the system.

Of the many "solutions" identified, the most important step that can be taken towards improving the enforcement of nearshore aquatic resources is developing and utilizing an effective civil enforcement system within DLNR. HB 2590 is an essential first step in developing a functional civil enforcement system.

The current system relies almost exclusively on criminal enforcement. The criminal justice system does not address resource violations consistently or with the appropriate level of concern. Currently, the DLNR's exclusive reliance on the criminal justice system and the county prosecutors means that the relatively few aquatic resource cases are lumped in with hundreds of daily, more commonly encountered and easily understood violations, i.e. assaults, driving violations, drug possession, etc. As a result, penalties are inconsistent and often inappropriate, frustrating both managers and community stakeholders. Civil administrative enforcement before the BLNR will ensure that resource violations are dealt with consistently and with appropriate seriousness, without resorting to the criminal justice system.

This bill will greatly enhance the state's capacity to enforce its aquatic resources laws. Resource managers, scientists, conservationists, fishers, and policy experts all agree that the state's enforcement capacity presents a significant barrier to more effective management efforts. By resolving legitimate concerns with the civil administrative enforcement process, the ABOUT FACE Act will pave the way for the Department of Land and Natural Resources ("DLNR") to effectively apply non-criminal monetary penalties through civil enforcement – a more efficient, effective, and appropriate process to address aquatic resources violations.

Transformative penalties provide an effective alternative to criminal liability. In many cases, former poachers have become some of the most outspoken and effective stewards of the natural environment, if given the chance to understand their potential value in the rehabilitation of resources impacted by human activity. The ABOUT FACE Act provides the BLNR the ability to

apply natural-resources community service in lieu of criminal penalties, providing a unique opportunity to transform former poachers into stewards of our aquatic resources.

This bill will save the state money. Division of Conservation & Resources Enforcement (“DOCARE”) officers dedicate their careers to protecting our natural resources, through compliance and enforcement actions in the field. However, officers are often frustrated with the minimal fines that result from aquatic resource cases that may take hours or even days of their time to properly investigate and document; cases that also consume considerable resources in the county prosecutors’ offices, the state public defender’s office, and the criminal court system. The meaningful civil fines provided for in administrative enforcement by the BLNR will not only provide a much more effective deterrence to resource violations, but may further mitigate the costs of resources enforcement currently lost in the criminal justice process.

Driver’s licensing revocation will give teeth to resources enforcement, without resorting to civil litigation or the criminal process. A major obstacle to administrative civil enforcement has been the lack of effective remedies for violators who ignore levied fines, as the only current remedy is the initiation of costly civil litigation. The ABOUT FACE Act will grant DLNR the ability to revoke a poacher’s driver’s license if they refuse to cooperate with levied fines or natural resources-related community service, providing a relatively efficient yet strong incentive for violators to take these fines seriously.

This bill will provide a huge step forward in fostering community-based fisheries management. Without a more effective law enforcement process to assure compliance by all stakeholders, community-based fisheries management efforts face considerable difficulties in fostering constructive engagement by users of our nearshore aquatic resources. By providing a more consistent and effective process to address resource violations and foster greater compliance with the law, this bill may greatly encourage the formation of community-based management strategies, as individuals will be much more likely to participate in management efforts when assured that others will comply.

This bill may provide a model for an environmental court. Many other jurisdictions have established a variety of “environmental courts,” or tribunals specifically tasked with adjudicating environmental cases. The success of these institutions has prompted numerous attempts to establish an environmental court in Hawai‘i; however, the magnitude and uncertainties of these previous proposals have effectively deterred their adoption. Giving the BLNR the tools it needs to explore administrative enforcement in the aquatic resources context may be a first, much more modest step towards exploring how an environmental tribunal may greatly enhance Hawai‘i’s capacity to defend and protect our natural and cultural resources.