

West Hawai‘i Marine Informational Briefing

- Commercial Aquarium Collection in West Hawai‘i
- Petition for Rulemaking for Commercial Aquarium Collection

May - June - July - August 2024

West Hawai'i Regional Fishery Management Area (WHRFMA)

Marine Life Conservation District (MLCD)

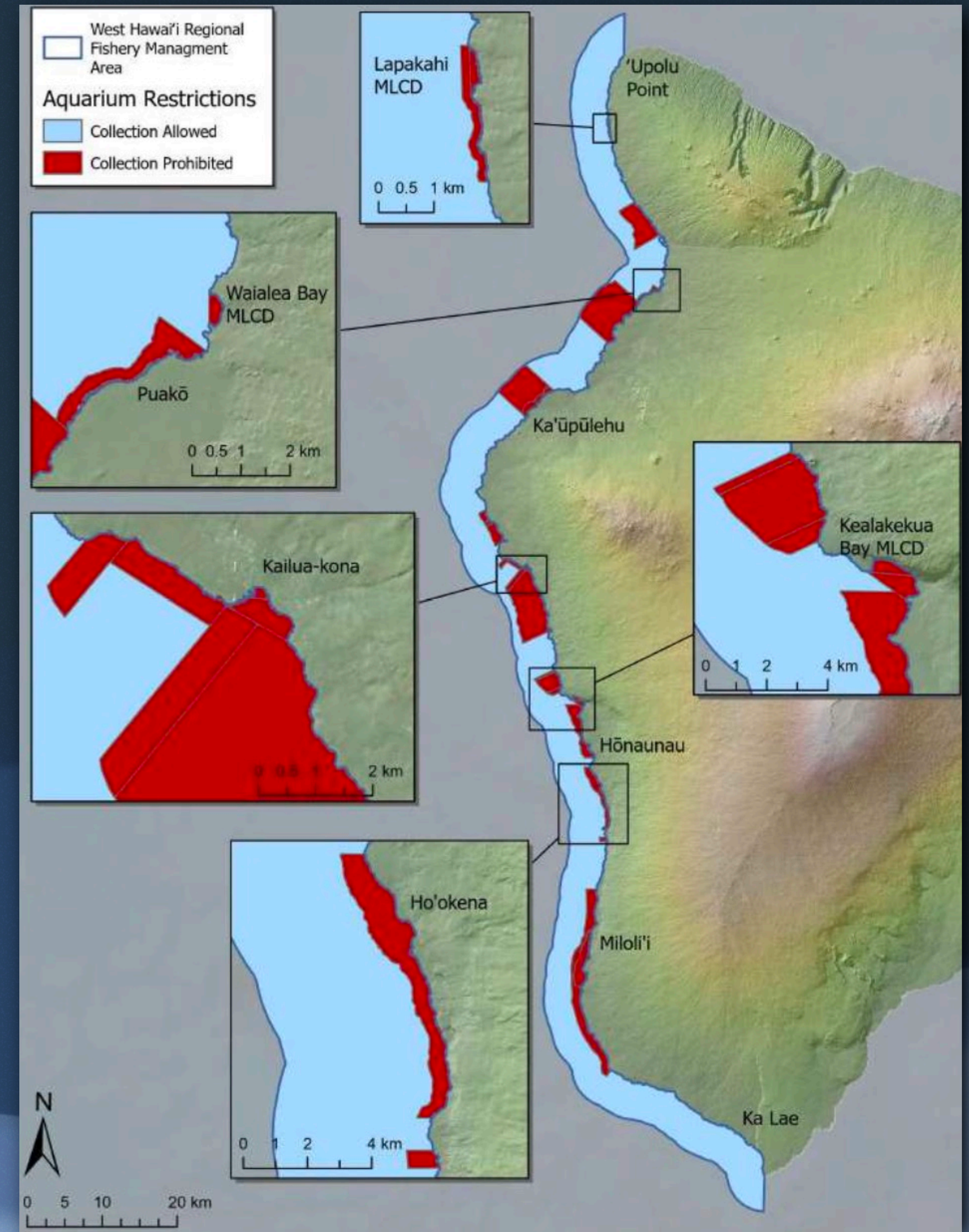
Lapakahi
Waialea Bay
Old Kona Airport
Kealakekua

Fisheries Management Area (FMA)

Kawaihae Harbor
Puakō Bay & Puakō Reef
Kīholo Bay
Kailua Bay
Keauhou Bay
Kona Coast – Wawāioli, Papawai Bay, Kailua Bay, Pu'u 'Ōhau

Community-Based Subsistence Fishing Area (CBSFA)

Miloli'i – Kīpahohoe - Kaulanamauna



West Hawai'i Regional Fishery Management Area (WHRFMA)

Marine Reserves

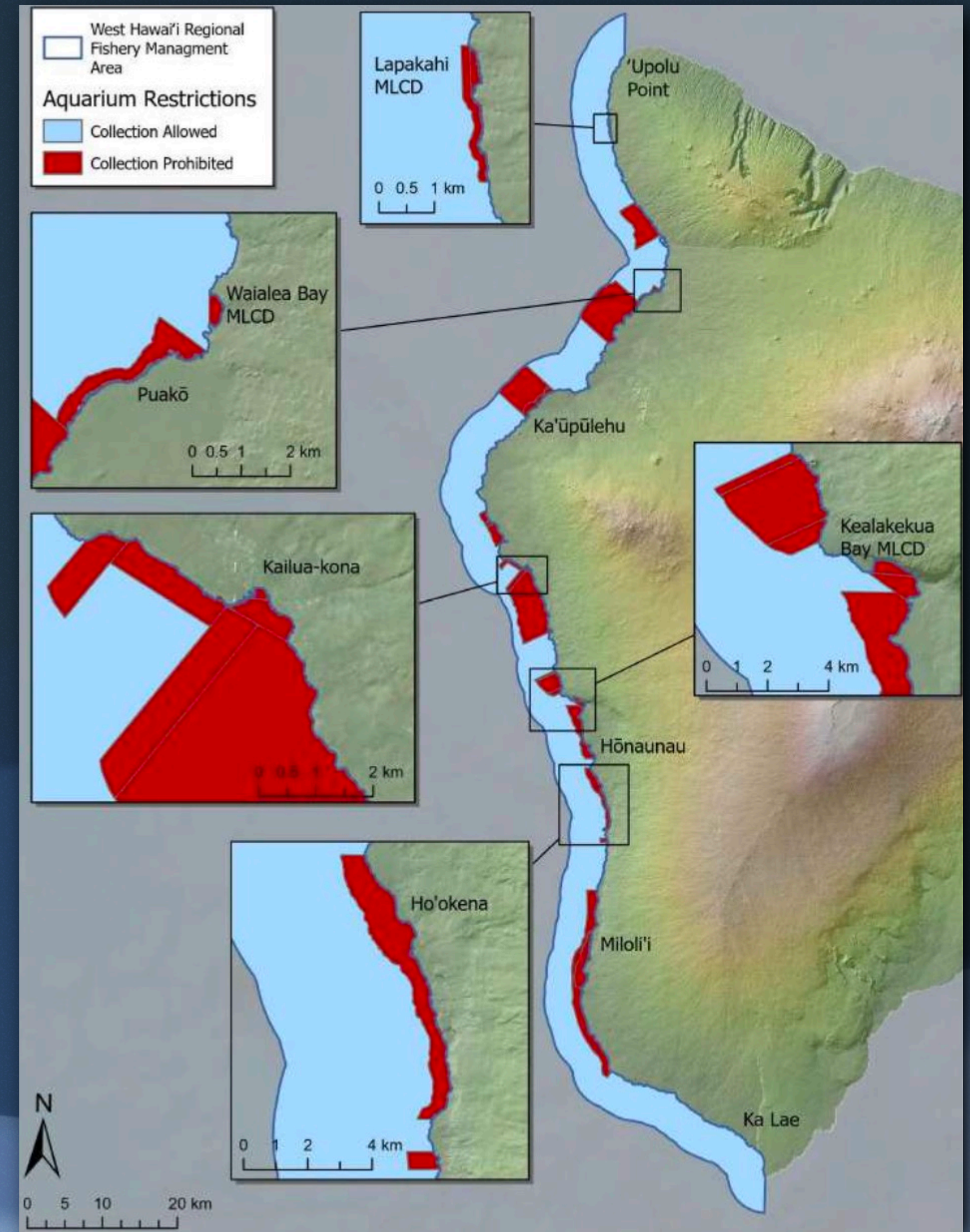
Ka'ūpūlehu Marine Reserve


Fish Replenish Area (FRA)

North Kohala FRA
Puakō-'Anaeho'omalū FRA
Kaloko-Honokōhau FRA
Kailua-Keauhou FRA
Pu'u 'Ōhau FRA
Nāpo'opo'o-Hōnaunau FRA
Ho'okena FRA
Ka'ohe FRA
Miloli'i FRA

Netting Restricted Areas

Kawaihae Harbor
Nenuē - Kealahakua
Hanamalo - Kanewa'a
Kanonone



BLNR AQ Related	DAR Direction & Timeline	
<p>7 permits for West Hawai'i Collection - In Progress *</p>	<p>AQ Permitting Process August 23</p> 	<p>West Hawai'i Only Revised EIS Submitted by PIJAC DAR Informational Briefing (Apr 12)</p> <p>Terms & Conditions, Chair's Authorization to Issue Permits</p>
<p>Petition for Rulemaking to Ban AQ Statewide - Approved</p>	<p>Chapter 91 TBD</p>	<p>Request for Public Hearing</p>

<p>Kaupiko Supreme Court Case - Await ruling</p>		<p>* If ruling in favor of Kaupiko, renders revised EIS for West Hawai'i application insufficient</p>
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West Hawai'i Regional Fishery Management Area (WHRFMA)

147 Ahupua'a

Marine Life Conservation District (MLCD)

Lapakahi
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Miloli'i

Community-Based Subsistence Fishing Area (CBSFA)

Miloli'i



Commercial Aquarium (AQ) Collection in Hawai‘i



- 2024 August 23rd, DAR to request approval to issue West Hawai‘i AQ permits from BLNR.
- 2023 Injunction prohibiting AQ permits in West Hawai‘i, is lifted
- 2023 West Hawai‘i - Plaintiffs appealed and transfer to Hawai‘i Supreme Court. Oral argument presented. Awaiting ruling.
- 2022 West Hawai‘i - Plaintiffs claim revised EIS fails to meet HEPA requirements; Circuit Court rules EIS is sufficient.
- 2021 O‘ahu - PIJAC submits an EIS for O‘ahu; BLNR unanimously rejected the EIS.
- 2021 West Hawai‘i - PIJAC submits a Revised EIS; BLNR deadlocked in a 3-3 vote. Procedural default acceptance of the EIS
- 2020 West Hawai‘i - PIJAC submits an EIS for West Hawai‘i; BLNR unanimously rejects the EIS.
- 2017 An injunction is ordered to prohibit issuance of any AQ permits till an EIS is approved by the BLNR.
- 2012 Suit against DLNR for issuing AQ permits without considering environmental impacts (HEPA).
- 1998 Act 306 created WHRFMA

* Date may change

* PIJAC - Pet Industry Joint Advisory Council

References

DAR's Informational Briefing (Apr 2024)

<https://dlnr.hawaii.gov/wp-content/uploads/2024/04/F-2.pdf>

<https://www.youtube.com/watch?v=GeBFcLpUrxE> @ 50:07

Revised Final EIS for West Hawai'i Aquarium Permits (Jun 2021)

<https://dlnr.hawaii.gov/wp-content/uploads/2021/06/BLNR-Item-F-3-6.25.21-AQ-RFEIS-part-1-signed.pdf>

Draft EIS for West Hawai'i (Nov 2019)

<https://www.documentcloud.org/documents/6933433-Draft-Environmental-Impact-Statement-West-Hawaii> (490 pages)

<https://dlnr.hawaii.gov/blog/2021/06/25/nr21-118/>

References

BLNR Hierarchy of Use Principles (1998)

[BLNR Hierarchy of Use Principles](#)

Ka Pa'akai Analysis (2000)

Paoakalani Declaration (2003)

[Paoakalani Declaration \(pdf\)](#)

Ka Wai Ola (June 2024)

[Exploiting Hawaiian Reef Fish](#)

BLNR Hierarchy of Use Principles (1998)

Policy for Commercial Activities on State Owned and Managed Lands and Waters Department of Land and Natural Resources

RECOMMENDATIONS APPROVED ON 1/30/98:

- 1) The Board accepted the final report of *Findings and Recommendations* from the Department's Commercial Use Task Force, and acknowledged the fine work of the Task Force in establishing the basis for the Department's commercial use policies.
- 2) The Board adopted the following commercial activity policies and directed the Department to develop appropriate standards and processing mechanisms to implement these policies as needed with the following caveats:
 - This should be done in a timely but transparent manner to assure that all affected constituencies are aware and participate where appropriate;
 - It should not unreasonably affect outstanding permits, licenses, and existing memoranda of understanding;
 - The diversity of resources managed by the Department will require different implementation approaches;
 - The current funding constraints will delay some actions needed for full implementation of these policies; and
 - All relevant commercial activity proposals brought forward for Board approval will have considered these commercial activity policies.

POLICY # 1:

The Department, when considering commercial activity proposals or management actions on state owned lands and waters, will use the following hierarchy of priorities:

- a. The Natural or Cultural Resource - The highest priority should go to the conservation of the resource. Only if an activity can be done in a way that does not **unduly damage** the resource, should it be allowed.
- b. The General Public - If use or activity by the public can be done without undue damage to the resource, it should be the next priority.
- c. Commercial Activities - Commercial activities should be considered only if their impacts do not impinge on the resource, #a above, or use by the general public, #b, above.

POLICY #7:

The Department will compile a list of eligible sites for commercial activity. The list will also note the intensity of commercial activity that will be permitted. The list will be periodically reviewed and updated.

Definitions:

Activity - A pursuit that does not involve the changing or alteration of land or water areas, or existing structures on those land or water areas. In general, activities are those things that take place on the resources in a passive way, do not involve any resource extraction, or do not require the imposition of change on the resource.

Commercial Activity - The collection by a party or their agent of any fee, charge, or other compensation shall make the activity commercial except when such fee, charge, or other compensation is for the sale of literature allowed under Chapter 13-7-7, HAR. Nonprofit status of any group or organization under Internal Revenue or Postal Laws or regulations does not in itself determine whether an event or activity arranged or managed by such a group or organization is noncommercial. Not for profit groups that charge only a nominal fee for administrative costs that utilize a public facility or resource at a frequency and/or magnitude that does not significantly contribute to the degradation of the facility and/or resource will be considered non-commercial.

Ecotourism - Travel to Hawaii's natural, cultural and historic attractions to experience and study Hawaii's unique environment, heritage and culture in a manner which is ecologically responsible and sustainable, and sustains the wellbeing of local communities.

Limits of Acceptable Change - A concept of assessing impacts to the resource. Under this concept, descriptors are established indicating what level of change or impact is tolerable, or what level it takes to trigger some kind of remedial action. If a resource is unduly impacted, restrictions are imposed, regardless of the number of users.

Managing Agency - The Managing Agency is that lead Division or office that has jurisdictional responsibility for the area being considered for an activity. If a proposed activity takes place on more than one jurisdiction, the division or office having the greatest area of resource will be considered as the Managing Agency.

Undue Damage or Impact - Includes excessive damage, or those impacts which cannot be economically remedied, given a managing agency's resources.

Use - If a proposed action will involve a change or construction, this is considered a use.

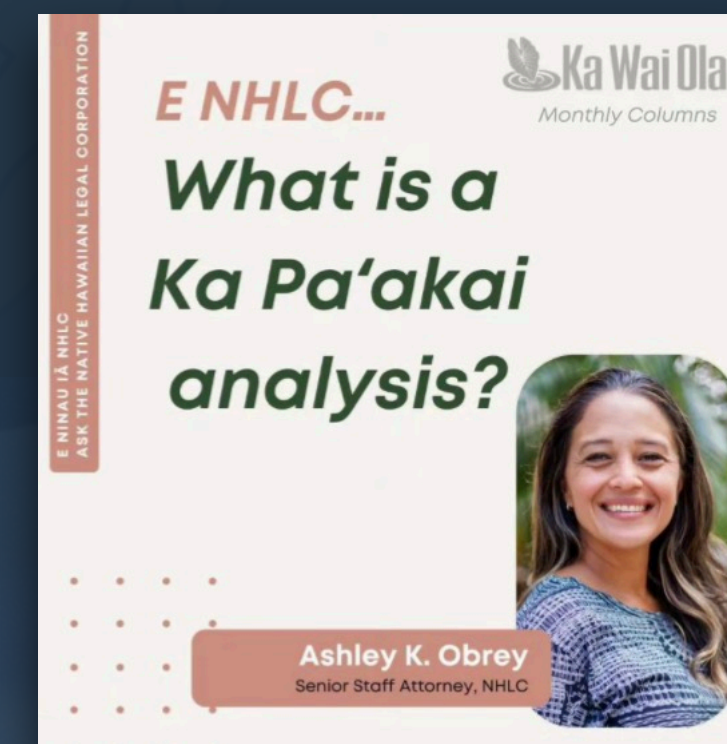
Ka Pa'akai Analysis (2000)

In the September 11, 2000 Hawai'i Supreme Court landmark decision (*Ka Pa'akai O Ka 'Aina v Land Use Commission*), **an analytical framework** for addressing the **preservation and protection of customary and traditional native practices specific to Hawaiian communities** was created. The court decision established a three-part process relative to evaluating such potential impacts:

first, to identify whether any **valued cultural, historical, or natural resources** are present; and identify the extent to which any traditional and customary native Hawaiian rights are exercised;

second, to identify the extent to which those resources and rights will be **affected or impaired** by the proposed action;

and third, to specify the feasible **action**, if any, to be taken by the regulatory body **to reasonably protect native Hawaiian rights** if they are found to exist.



PAOAKALANI DECLARATION (2003)

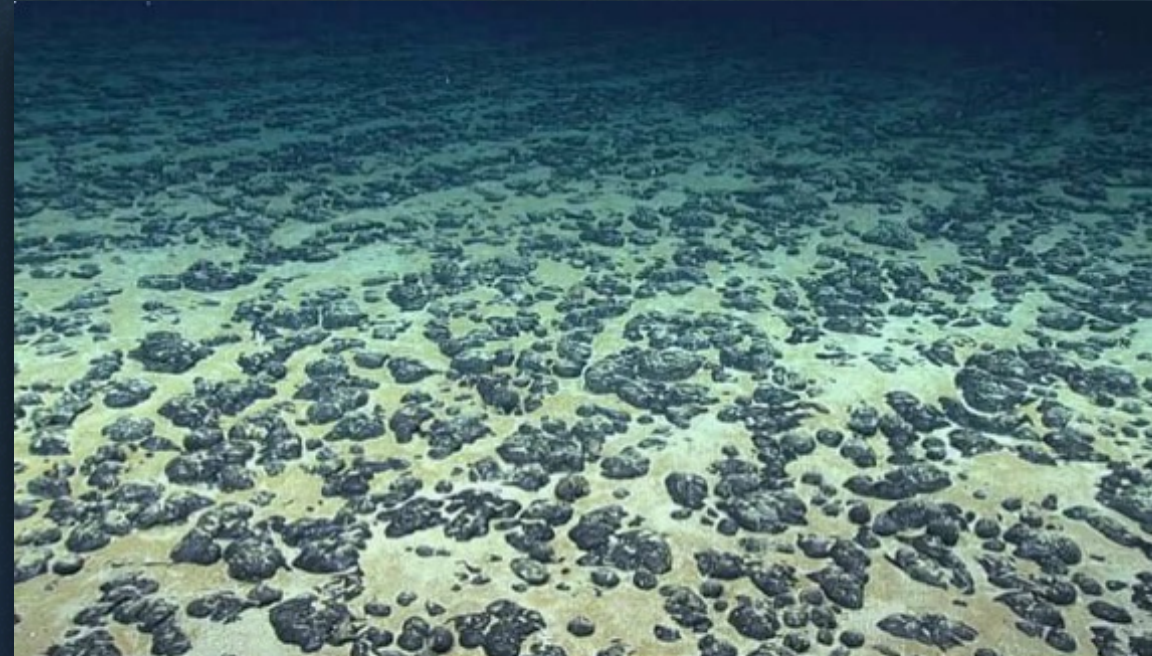
KAUOHA: DECLARATION

1. Kanaka Maoli have the right of self-determination. By virtue of that right we freely determine our political status and freely pursue our economic, social, and cultural development, which includes determining appropriate use of our traditional knowledge, cultural expressions and artforms, and natural and biological resources.
2. The lands, submerged lands, waters, oceans, airspace, territories, natural resources of Ka Pae `Āina Hawai`i and associated Kanaka Maoli traditional knowledge are, by our inherent birth right, the kuleana and property of Kanaka Maoli and the inheritance of future generations of our peoples. As such, the standards and criteria for consumption, development, and utilization of these resources shall be there for Kanaka Maoli to promote our culture through principles of pono, aloha `āina and mālama `āina.
3. We reaffirm that colonialism is perpetuated through the intellectual property regimes of the west and call upon all peoples residing on our territories to acknowledge, adopt, and respect the cultural protocols of our peoples to maintain and protect Hawai`i and its great wealth of biodiversity.
4. We declare our willingness to share our knowledge with humanity provided that we determine when, why, and how it is used. We have the right to exclude from use those who would exploit, privatize, and unfairly commercialize our traditional knowledge, cultural expressions and artforms, natural resources, biological material, and intellectual properties.

Ka Wai Ola (June 2024)



Exploiting Hawaiian Reef Fish
kawaiola.news



**Deep-Sea Mining to Support Green Energy:
The Big Lie**
kawaiola.news



Whales are Now Legal Persons
kawaiola.news

References

Statute & Administrative Rules

The seal of the State of Hawaii is a circular emblem. At the top, it features a rope-like border. Inside, the words "STATE OF HAWAII" are written in a semi-circle. Below this, the year "1959" is centered, flanked by two small crosses. The central part of the seal depicts a shield with a sunburst at the top, a central figure holding a spear, and a base with a flame. Below the shield is a wreath of green leaves. At the bottom, the Hawaiian phrase "MAU·KE·EA·O·KA·AINA·I·KA·PO" is written in a semi-circle.

STATE OF HAWAII
1959

ARTICLE XII
HAWAIIAN AFFAIRS

TRADITIONAL AND CUSTOMARY RIGHTS

Section 7. The State reaffirms and shall 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.

References

HRS § 189-2,3 Section 1.2.2

Commercial Marine Permit

§189-2 Commercial marine license and commercial marine vessel license. (a) No person shall take marine life for commercial purposes whether the marine life is caught or taken within or outside of the State, without first obtaining a commercial marine license as provided in this section; provided that a single valid commercial marine vessel license shall satisfy the commercial marine license requirement for all persons taking marine life for commercial purposes aboard a validly-licensed vessel. If a Hawaii longline vessel satisfies the commercial marine license requirement by obtaining a single commercial marine vessel license, the commercial marine vessel licensee shall file an annual report with the department that contains the following information: identity, nationality, arrival date, and departure date of the crew members.

(b) Any person providing charter services in the State for the [taking of marine life in or outside of the State shall obtain a commercial marine license](#).

(c) Any vessel used for or engaged in the [taking of marine life for commercial purposes shall be eligible to obtain a commercial marine vessel license](#).

(d) The department may adopt rules pursuant to chapter 91 necessary for the purpose of this section and to set fees for commercial marine and commercial marine vessel licenses.

(e) The fees for commercial marine and commercial marine vessel licenses and duplicate commercial marine and commercial marine vessel licenses shall be established by the department by rules adopted in accordance with chapter 91.

(f) The department shall suspend, shall refuse to renew, reinstate, or restore, or shall deny any license issued under this section if the department has received certification from the child support enforcement agency pursuant to section 576D-13 that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. The department shall issue, renew, reinstate, or restore an affected license only upon receipt of authorization from the child support enforcement agency, the office of child support hearings, or the family court. [L 1929, c 187, §2; RL 1935, §331; RL 1945, §1257; am L 1947, c 39, §2; am L 1949, c 272, §2; am L 1955, c 96, §3; RL 1955, §21-111; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §189-2; am L 1977, c 128, §2; am L 1981, c 85, §79; am L 1985, c 242, §2; am L 1988, c 117, §3; am L 1998, c 83, §1; am L 1999, c 9, §1; am L 2002, c 86, §6; am L 2003, c 133, §4; am L 2019, c 279, §1; am L 2021, c 43, §2]

Community-Based Subsistence Fishing Area

HRS § 188-22.6

[§188-22.6] Designation of community-based subsistence fishing area. (a) The department of land and natural resources may designate community-based subsistence fishing areas and carry out fishery management strategies for such areas, through administrative rules adopted pursuant to chapter 91, **for the purpose of reaffirming and protecting fishing practices customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion.**

- (b) Proposals may be submitted to the department of land and natural resources for the department's consideration. The proposal shall include:
- (1) The name of the organization or group submitting the proposal;
 - (2) The charter of the organization or group;
 - (3) A list of the members of the organization or group;
 - (4) A description of the location and boundaries of the marine waters and submerged lands proposed for designation;
 - (5) Justification for the proposed designation including the extent to which the proposed activities in the fishing area may interfere with the use of the marine waters for navigation, fishing, and public recreation; and
 - (6) A management plan containing a description of the specific activities to be conducted in the fishing area, evaluation and monitoring processes, methods of funding and enforcement, and other information necessary to advance the proposal.

Proposals shall meet community-based subsistence needs and judicious fishery conservation and management practices.

- (c) For the purposes of this section:
- (1) **"Native Hawaiian" means any descendant of the races inhabiting the Hawaiian Islands prior to 1778; and**
 - (2) **"Subsistence" means the customary and traditional native Hawaiian uses of renewable ocean resources for direct personal or family consumption or sharing. [L 1994, c 271, §1]**

References

HRS § 188-31 Section 1.2.1

Aquarium Permit Use

Permits to take aquatic life for aquarium purposes.

(a) Except as prohibited by law, **the department**, upon receipt of a written application, **may issue an aquarium fish permit**, not longer than one year in duration, to use fine meshed traps, or fine meshed nets other than throw nets, for the taking of marine or freshwater nongame fish and other aquatic life for aquarium purposes.

(b) Except as prohibited by law, the permits shall be issued only to persons **who can satisfy the department that they possess facilities to and can maintain fish and other aquatic life alive** and in reasonable health.

(c) It shall be illegal to sell or offer for sale any fish and other aquatic life taken under an aquarium fish permit unless those fish and other aquatic life are sold alive for aquarium purposes.

The department may adopt rules pursuant to chapter 91 for the purpose of this section.

(d) For the purposes of this section:

- (1) "Aquarium purposes" means to hold salt water fish, freshwater nongame fish, or other aquatic life alive in a state of captivity as pets, for scientific study, or for public exhibition or display, or for sale for these purposes; and
- (2) "Aquarium fish permit" means a permit **issued by the board** for the use of fine mesh nets and traps to take salt water fish, freshwater nongame fish, or other aquatic life for aquarium purposes. [L 1953, c 124, §§1, 2, 3; RL 1955, §21-64; am L 1961, c 30, §§1, 2 and c 132, §2; HRS §188-31; am L 1979, c 154, §1; gen ch 1985; am L 1992, c 96, §2]

References

HAR § 13-60.4

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART II MARINE FISHERIES MANAGEMENT AREA

CHAPTER 60.4

WEST HAWAI'I REGIONAL FISHERY MANAGEMENT AREA, HAWAI'I

Prior White List

Table 3. "White-list" species with known Hawaiian name(s) and status.

<i>Scientific Name</i>	<i>Hawaiian Names</i>	<i>Common Name</i>	
<i>Acanthurus achilles</i>	<i>pākukui, pākuikui, pāku'iku'i</i>	Achilles tang	Indigenous
<i>Acanthurus dussumieri</i>	<i>palani</i>	eyestripe surgeonfish	Indigenous
<i>Acanthurus nigricans</i>	unknown	goldrim surgeonfish	Indigenous
<i>Acanthurus nigrofuscus</i>	<i>mā'i'i'i, mā'i'i</i>	brown surgeonfish, lavender tang	Indigenous
<i>Acanthurus olivaceus</i>	<i>na'ena'e</i>	orangeband surgeonfish	Indigenous
<i>Acanthurus thompsoni</i>	species of <i>kala</i>	Thompson's surgeonfish	Indigenous
<i>Anampses chrysocephalus</i>	species of <i>hīnālea</i>	psychedelic wrasse	Endemic
<i>Canthigaster jactator</i>	unknown	whitespotted Toby	Endemic
<i>Centropyge fisheri</i>	unknown	Fisher's angelfish	Indigenous
<i>Centropyge potteri</i>	unknown	Potter's angelfish	Endemic
<i>Cephalopholis argus</i>	unknown	peacock grouper, <i>roi</i>	Invasive
<i>Chaetodon kleinii</i>	<i>kīkākapu, kapuhili, lauhau, lauwiwili</i>	blacklip butterflyfish	Indigenous
<i>Chaetodon miliaris</i>	<i>kīkākapu</i>	milletseed butterflyfish	Endemic
<i>Chaetodon multicinctus</i>	<i>kīkākapu</i>	multiband butterflyfish	Endemic
<i>Chaetodon quadrimaculatus</i>	<i>lauhau</i>	fourspot butterflyfish	Indigenous
<i>Chaetodon tinkeri</i>	<i>kīkākapu, kapuhili, lauhau, lauwiwili</i>	Tinker's butterflyfish	Indigenous
<i>Cirrhilabrus jordani</i>	species of <i>hīnālea</i>	flame wrasse	Endemic
<i>Cirrhitops fasciatus</i>	<i>piliko'a</i>	redbarred hawkfish	Endemic
<i>Coris gaimard</i>	<i>hīnālea 'akilolo</i>	yellowtail Coris	Indigenous
<i>Ctenochaetus hawaiiensis</i>	species of <i>kole</i>	chevron tang	Indigenous
<i>Ctenochaetus strigosus</i>	<i>kole, kole makaonaona</i>	goldring surgeonfish	Endemic
<i>Dascyllus albisella</i>	<i>'ālo'ilo'i</i>	Hawaiian Dascyllus	Endemic
<i>Forcipiger flavissimus</i>	<i>lauwiwili nukunuku 'oi'oi</i>	forcepsfish	Indigenous
<i>Gomphosus varius</i>	<i>hīnālea 'i'iwi</i>	bird wrasse	Indigenous
<i>Halichoeres ornatissimus</i>	<i>lā'ō</i>	ornate wrasse	Endemic
<i>Hemitaurichthys polylepis</i>	<i>kapuhili</i>	pyramid butterflyfish	Indigenous
<i>Lutjanus kasmira</i>	unknown	bluestripe snapper, <i>ta'ape</i>	Invasive
<i>Macropharyngodon geoffroy</i>	species of <i>hīnālea</i>	shortnose wrasse	Endemic
<i>Melichthys niger</i>	<i>humuhumu 'ele'ele</i>	black Durgon	Indigenous
<i>Naso lituratus</i>	<i>umaumalei, kala umaumalei</i>	orangespine unicornfish	Indigenous
<i>Ostracion meleagris</i>	<i>pahu, moa</i>	spotted boxfish	Indigenous
<i>Paracirrhites forsteri</i>	<i>hilu, hilu piliko'a</i>	blackside hawkfish	Indigenous
<i>Pseudanthias hawaiiensis</i>	unknown	Hawaiian longfin Anthias	Endemic
<i>Pseudocheilinus octotaenia</i>	species of <i>hīnālea</i>	eightline wrasse	Indigenous
<i>Pseudocheilinus tetrataenia</i>	species of <i>hīnālea</i>	fourlined wrasse	Indigenous
<i>Pseudojuloides cerasinus</i>	species of <i>hīnālea</i>	smalltail wrasse	Indigenous
<i>Sufflamen bursa</i>	<i>humuhumu lei, humuhumu umaumalei</i>	lei triggerfish	Indigenous
<i>Thalassoma duperrey</i>	<i>hīnālea lauwiwili</i>	saddle wrasse	Endemic
<i>Xanthichthys auromarginatus</i>	species of <i>humuhumu</i>	gilded triggerfish	Indigenous
<i>Zebrasoma flavescens</i>	<i>lā'i pala, lau'i pala</i>	yellow tang	Indigenous

Preferred Alternative White List

White List (8 species)

TAC

APPENDIX C: Summary of Commercial Aquarium Fisheries

Marine Fisheries	
Input Controls	
Commercial Marine License (CML) requirement	
Aquarium permit requirement	
West Hawai'i Regional Fishery Management Plan	
Gear restrictions	
Hawai'i Environmental Policy Act (HEPA) requirements	
Vessel marking requirement	
Output Controls	
West Hawai'i commercial aquarium collection limit	
Kole size limit	
White list ¹ (40 species)	
Revised white list (8 species)	
Total Allowable Catch (TAC) ² for revised white list	
Spatial Controls³	
Marine Life Conservation Districts (MLCDs)	
Fish Replenishment Areas (FRAs)	
Miloli'i Community-Based Subsistence Fishery	
Monitoring	
Commercial logbook – catch report	
Commercial logbook - dealer report	
West Hawai'i Aquarium Project (WHAP)	

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ai'i

Status
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Current

the list are

please till the

Lau'ipala (<i>Zebrasoma flavescens</i>) <small>lā'i pala, yellow tang</small>	200,000
Kole (<i>Ctenochaetus strigosus</i>) <small>Goldring Surgeonfish, kole tang, kole makaonaona, pākole, yelloweye kole</small> <small>* endemic</small>	12,775
Umaumalei (<i>Naso lituratus</i>) <small>Kala Umaumalei, Orangespine Unicorn, Clown tang, Naso tang</small>	5,827
Black-eye Kole (<i>Ctenochaetus hawaiiensis</i>) <small>Chevron tang, Black Surgeonfish, ukole, pākole, king kole</small>	3,152
Potter's Angelfish (<i>Centropyge potteri</i>) <small>* endemic</small>	1,086
Mā'i'i'i (<i>Acanthurus nigrofuscus</i>) <small>mā'i'i, Lavender tang, Brown Surgeonfish, Forktail tang</small>	800
Hīnālea 'i'iwi (<i>Gomphosus varius</i>) <small>Hīnālea nukuiwi, Bird Wrasse</small>	344
Thompson's Surgeonfish (<i>Acanthurus thompsoni</i>)	182

¹ The term "white list" refers to the list of species prohibited for take by the fishery.

² Annual limit on the total take of each species following year.

³ All commercial aquarium collection currently prohibited.

Testimony

Reminder to the Board of Land and Natural Resources

- BLNR Hierarchy of Use Policy
- DLNR's mission – *“Enhance, protect, conserve and manage Hawaii's unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawaii nei, and its visitors, in partnership with others from the public and private sectors.”*
- State agencies's obligation
 - ... to uphold Native Hawaiian rights as written in our Hawai'i Constitution.*
- Current 2-year prohibition on take of Pāku'iku'i in West Hawai'i
 - AQ collectors take the young, Subsistence & Commercial harvest the mature
- If you are/were a hoā'āina of Maui Nui a Kama ...
- If you are/were a hoā'āina of O'ahu a Lua a Kakuhihewa ...

Feedback & Testimony

- ‘O wai ‘oe?
- Pilina to your ‘ahupua‘a
- Previous testimonies related to AQ
 - EIS Interviews - some were contacted, consulted/interviewed
 - Feb 26, 2021; December 2023 Petition to Ban AQ statewide
 - April 12 DAR’s Informational Briefing
 - *examples ...*
- Cultural Impact
- Natural Resource Impact - by kilo, your experiences
- BLNR Board Members - Hawai‘i Island, Riley Smith
- Be clear in your position about AQ activity in West Hawai‘i
- Ka Wai Ola (June 2024) - <https://kawaiola.news/aina/exploiting-hawaiian-reef-fish/>

Testimony Template

- Introduction
 - ‘O wai ‘oe?
 - Pilina to your ‘ahupua‘a (list all)
- (2) Primary Recommendations:
 - Request the Board deny any and all AQ permits
 - Do not delegate authority to the Department Chair to review and issue any permits
- Ka Wai Ola (June 2024) - <https://kawaiola.news/aina/exploiting-hawaiian-reef-fish/>

FestPAC 2024 Ho‘oulu Lāhui

Opening Ceremony <https://www.youtube.com/watch?v=ARNkXzPyzpc>

Orators (selected): <https://www.youtube.com/watch?v=fnFJtNkjdbo>

“your genealogy and your identity are not negotiable”

we are caretakers of the largest ocean in the world!

How & When to Engage

Now	Provide Feedback/Testimony To Riley Smith	Mailto: Riley Smith Subject: West Hawai'i AQ Permits
Aug 15	Provide Feedback/Testimony to the BLNR blnr.testimony@hawaii.gov due August 22 9:00 am	Mailto: blnr.testimony@hawaii.gov Subject: F-1 West Hawai'i AQ Permits
Aug 23	Provide Oral Testimony via Zoom Request to give testimony via zoom	Mailto: blnr.testimony@hawaii.gov Subject: Zoom Testimony F-1 West Hawai'i AQ Permits Zoom User Profile Name, F-1 2 minutes
Aug 23	Provide Oral Testimony In-Person 1151 Punchbowl Street, Kalanimoku Bldg	BLNR Board Meeting 2 minutes

BLNR F-1 Submittal

3 DAR requests being made in this submittal	Written	Oral 2 minutes
<p>HRS Request for Approval of the Application Form and Terms and Conditions for the State of Hawai'i Aquarium Fish Permit Pursuant to Hawaii Revised Statutes Section 188-31;</p> <ul style="list-style-type: none"> • Commercial Marine License • Marine Vessel License • AQ Facilities Location/License • All prior violations for DAR and DOBOR • No AQ permit use activities during the hours after sunset and before sunrise 		
<p>HAR Request for Approval of Terms and Conditions for the West Hawai'i Aquarium Permit Pursuant to Hawaii Administrative Rules Section 13-60.4-7;</p> <ol style="list-style-type: none"> 1. Whitelist shall not contain any food fish or endemic species; 2. Lau'ipala TAC - no more than 1,825 (5x per permittee, per day unless further restrictive by rules, or considerations such as Thompson's Surgeonfish. 3. No AQ permit use after sunset and before sunrise 4. Detail Chain of Custody 5. Cultural Monitors 6. Cultural Training 7. DLNR to conduct AQ facilities / holding tanks before issuing any permit 8. DLNR to secure budget to manage this fishery (to include these Terms & Conditions) before issuing any permit. 		
<p>Request to Delegate Authority to the Chair to Approve, Sign, and Issue West Hawai'i Aquarium Permits and State of Hawai'i Aquarium Fish Permits authorizing limited commercial aquarium collection in the West Hawai'i Regional Fishery Management Area (WHRFMA) to Up to Seven Applicants That Meet Certain Criteria and Requirements</p> <ol style="list-style-type: none"> 1. HRS § 188-31 1.2.1 (d) (2) "Aquarium fish permit" means a permit issued by the board 2. Board's discretionary authority utilizing their island community and specialized knowledge to collectively make informed decisions 3. Complex discussions of late regarding SAPs, Education & Research Aquariums exemplifies the necessary diverse perspectives for informed decision making supports the needed authority of the Board 		

Testimony Strategy

	Written	Oral 2 minutes
<p>Terms & Conditions</p> <ol style="list-style-type: none"> 1. Alternatives (aquaculture, non-native invasives) 2. "Plan B" Terms & Conditions 3. Where was/is DAR's community outreach to discuss Terms & Conditions? (U) - as it pertains to deriving T&Cs/Ka Pa'akai Analysis 4. Lacks measures to prevent excessive take in any particular area of WHRFMA 	✓	
<p>Deny any and all permits</p> <ol style="list-style-type: none"> 1. DLNR's mission – protect and preserve cultural and natural resources; AQ permit negotiates on that mission; 2. WHRFMA - Historically, was an imposed negotiation; West Hawai'i Hoā'aina (tenants, caretakers) are here to assert No Commercial AQ 3. Cultural & Natural Resources <ol style="list-style-type: none"> a. Extractive of shared public trust assets b. Commodifying our cultural and natural resources c. Appeases the imposed negotiation 4. Still in recovery - no scientific data on the recovery; Increase (of course) with 5. Lacks remediation of prior issues of violations (excessive take, poaching in restricted areas, illegal gear use) 6. DLNR lacks preparedness - no facilities inspection, verify take on Chain of Custody 	✓	
<p>Do not delegate authority to the Department Chair (U)</p> <ol style="list-style-type: none"> 1. 188-31 1.2.1 (d) (2) "Aquarium fish permit" means a permit issued by the board 2. Board's discretionary authority utilizing their island community and specialized knowledge to collectively make informed decisions 3. The complex discussions of late regarding SAPs, Education & Research Aquariums exemplifies the necessary diverse perspectives for informed decision making 	✓	
<p>Alternatives</p> <ul style="list-style-type: none"> • Aquaculture Reference Implementation: Biota Hawai'i – HPU Ocean Institute, NELHA aquaculture of food fish Alignment with SAPs for research & education, restocking of loko i'a, food sustainability initiatives, increases acceptance by communities • Invasives —Non-native, and native—GOTS 	? Sierra Club	? Sierra Club

Testimony Strategy

	Written	Oral 2 minutes
<p>Community Engagement & Ka Pa‘akai Analysis (U)</p> <ol style="list-style-type: none"> No DAR’s community engagement / scoping for Terms & Conditions? <ol style="list-style-type: none"> to address conflicts between tenants and reduce conflicts to mitigate issues related to this fishery – poaching, excessive take, illegal gear EIS Interviews were conducted in 2018? <ol style="list-style-type: none"> Should we have an updated EIS? Should DAR & ‘Aha Moku have done their own community engagement with tenants of 147 ahupua‘a to assure you are protecting constitutional rights of “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.” and reflected in the Department’s Ka Pa‘akai Analysis. 	✓	
<p>DLNR & Board Preparedness for this Submittal</p> <ol style="list-style-type: none"> Aligned Motions on Aquarium take – SAPs <ol style="list-style-type: none"> Monterey Bay Aquarium deferred SAP. Issued an SAP in May. Are Maui Ocean Center SAPs valid? Waikiki Aquarium? EIS completed in 2019 (Interviews conducted in 2018) – DAR’s obligation & duty to perform community outreach as part of Ka Pa‘akai Analysis and not solely on the EIS, and in particular to discuss the issues so that Terms & Conditions would incorporating mitigating measures DLNR (DAR, DOCARE) budget? Resources for this fishery? To include mitigation of all prior issues related to this fishery – excessive take, poaching, illegal gear, (legislation?) be able to prosecute on violations, take possession. <ol style="list-style-type: none"> \$ 272k Howard & Toriyana, 235 fish of 10 specie, 16 boating and fishing violations (Feb 2021) Beevers 16 violations, 333 lau‘ipala, 3 pāku‘iku‘i in an FMA (Aug 2020) 	✓	
<p>HRS § 188-31</p> <ol style="list-style-type: none"> It’s discretionary – may issue an aquarium fish permit “possess facilities to and can maintain fish and other aquatic life alive and in reasonable health” – Nobody is conducting inspections. Board authority – (d) (2) “Aquarium fish permit” means a permit issued by the board 	✓	

Testimony Strategy

	Written	Oral 2 minutes
<p>Community Engagement & Ka Pa‘akai Analysis (U)</p> <ol style="list-style-type: none"> No DAR’s community engagement / scoping for Terms & Conditions? <ol style="list-style-type: none"> address conflicts between tenants and reduce conflicts to mitigate prior issues related to this fishery – poaching, excessive take, illegal gear EIS Interviews were conducted in 2018? Shouldn’t we have an updated EIS? Shouldn’t DAR & Aha Moku have done their own community engagement with tenants of 147 ahupua`a to assure you are protecting constitutional rights of “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.” 	✓	
<p>DLNR & Board Preparedness for this Submittal (U)</p> <ol style="list-style-type: none"> Aligned & Inconsistent Motions & Rulings; Aquarium SAPs invalid? <ol style="list-style-type: none"> Monterey Bay Aquarium deferred SAP. Issued an SAP in May. Are Maui Ocean Center SAPs valid ? EIS completed in 2019 (Interviews conducted in 2018) – DAR’s obligation & duty to perform community outreach as part of Ka Pa‘akai Analysis and not solely on the EIS, and in particular to discuss the issues so that Terms & Conditions would incorporating mitigating measures DLNR (DAR, DOCARE) budget? Resources for this fishery? To include mitigation of all prior issues related to this fishery – excessive take, poaching, illegal gear, (legislation?) be able to prosecute on violations, take possession. <ol style="list-style-type: none"> \$ 272k Howard & Toriyana, 235 fish of 10 specie, 16 boating and fishing violations (Feb 2021) Beevers 16 violations, 333 lau’ipala, 3 pāku’iku’i in an FMA (Aug 2020) 	✓	
<p>HRS § 188-31</p> <ol style="list-style-type: none"> It’s discretionary – may issue an aquarium fish permit “possess facilities to and can maintain fish and other aquatic life alive and in reasonable health” – Nobody is conducting inspections. Board authority – (d) (2) “Aquarium fish permit” means a permit issued by the board 	✓	

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Terms & Conditions

- White List

Species white list shall not contain any food fish or endemic species

Total Allowable Catch - 1,825 (derived: no more than 5 per day per white list species, per permittee). This is more than research/education take on SAPs.

- No aquarium permit use activities (collection and verification on chain of custody)

- Chain of Custody

Record and confirmed full chain of custody by the Department and Cultural Monitors

Many violations – poaching, excessive take; Chain of Custody provides insight to any potential issues (such as mortality, illegal gear use) that can be mitigated

- Cultural Monitors

History repeats itself In the most contentious events impacting our environment – Mauna Kea, Lahaina recovery, and Red Hill. Most immediately actions taken are (1) assemble a working group and (2) install permanent cultural monitors

Permittee is to pay for a cultural monitor (approved by DAR and co-manager(s) of the area harvesting from

- Cultural Training

Have permit applicants complete Known Indigenous Perspectives & Alignment (KIPA) training and certification conducted by Edith Kanaka'ole Foundation.

- AQ Facilities

DLNR to inspect facilities / holding tanks prior to issuing permits.

- Legislation - DLNR Budget

Secure appropriate budget for managing this fishery to include these Terms & Conditions before issuing permits

Application Form

- **Prior Violations**

All prior violations (and not limited to 5 years of which an injunction existed and therefore would not reveal any prior violations) DAR and DOBOR.

- **Permits are non-transferable or additionally issued to replace a permittee on a permit that has been revoked.**

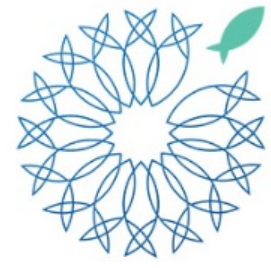
- **No Aquarium Permit Use Activities**

During the hours after sunset and before sunrise

- **Cultural Monitors**

History repeats itself In the most contentious events impacting our environment – Mauna Kea, Lahaina recovery, and Red Hill. Most immediately actions taken are (1) assemble a working group and (2) install permanent cultural monitors

Permittee is to pay for a cultural monitor (approved by DAR and co-manager(s) of the area harvesting from



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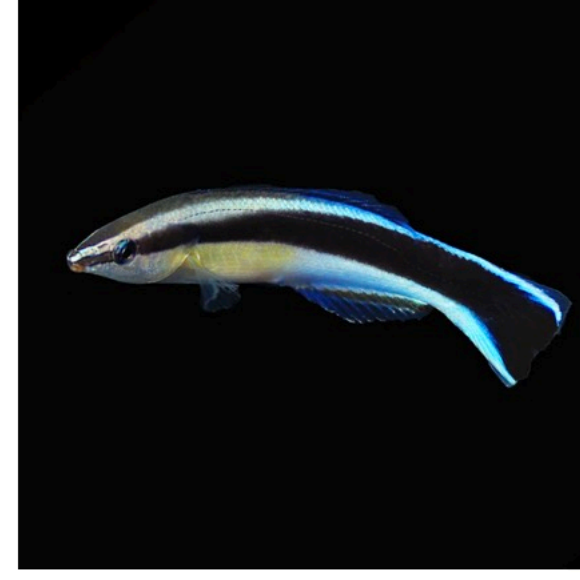
Since 2018 Biota has established a public private partnership with the Hawaii Pacific University to culture the famous Yellow Tang.

We are proud to announce that we are now in full commercial production of the species which took us about 3 years to go from the research results and numbers in 2017 to where we are now. This is a prime example how a very important species can be cultured instead of being taken from the wild.



©Jocelyn Wilson

Biota Hawaii
Hawaiian Yellow Tang
from \$165.00 USD



Biota Hawaii
Blue Streak Cleaner Wrasse
\$160.00 USD



Biota Hawaii
Sydney Seahorse
\$500.00 USD



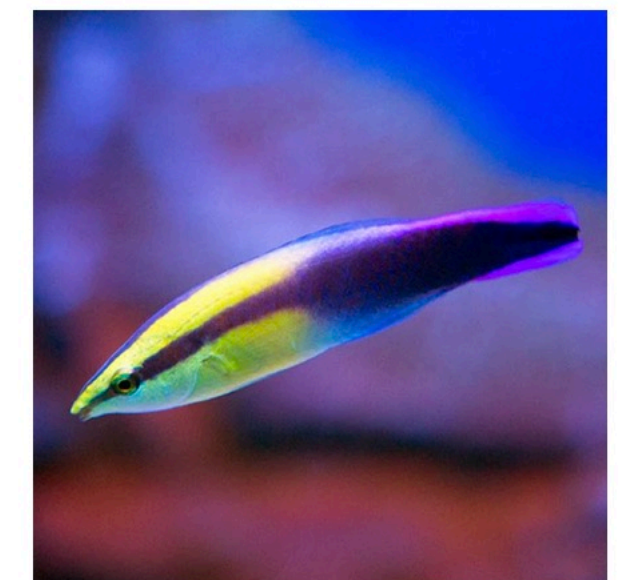
Biota Hawaii
Hawaiian Potter's Angelfish
\$900.00 USD



Biota Hawaii
Flame Angelfish
\$275.00 USD



Biota Hawaii
Milletseed Butterflyfish Each
\$80.00 USD



Biota Hawaii
Hawaiian Cleaner Wrasse
\$650.00 USD