

Native Hawaiian & Pacific Islander



**HAWAI'I
COVID-19**

Response Recovery Resilience

TEAM

August 25, 2020

Brian Neilson
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**Re: Testimony in SUPPORT of the Proposed Adoption of Hawai'i
Administrative Rules Chapter 13-60.9, Mo'omomi Community-Based
Subsistence Fishing Area**

Aloha mai e Mr. Neilson,

The Native Hawaiian Pacific Islander COVID-19 Response, Recovery and Resilience Team (NHPI Hawai'i COVID-19 Team) offers its **strong support** for the proposed adoption of the Mo'omomi Community-Based Subsistence Fishing Area (Mo'omomi CBSFA) rules, as put forward by the Hui Mālama o Mo'omomi and developed after decades of careful loea lawai'a (fishing expert, or master) observation of the waters and resources of Mo'omomi, Moloka'i. **The NHPI Hawai'i COVID-19 Team believes that the adoption of these rules will not only promote the resiliency, self-sufficiency, culture, and health of Moloka'i's Native Hawaiian and other community members, but may establish a precedent that will encourage and facilitate similar efforts being undertaken by Native Hawaiian subsistence communities throughout Hawai'i.**

The Native Hawaiian & Pacific Islander Hawai'i COVID-19 Response Recovery Resilience Team (NHPI 3R) was established in April 2020, in alignment with the national NHPI Response Team, to improve the collection and reporting of accurate data, identify and lend support to initiatives across the Hawaiian islands working to address COVID-19 among Native Hawaiians and Pacific Islanders, and unify to

establish a presence in the decision-making processes and policies that impact our communities.

The COVID-19 pandemic has highlighted Hawai'i's extreme and growing vulnerabilities to a number of potential and growing threats to the health, economic stability, and cultural identities of our islands' communities. These threats and vulnerabilities, in addition to the current pandemic itself, counsel the urgent need to seek new, innovative solutions to restore and reinforce the resiliency and self-sufficiency of our islands. The current pandemic's impacts, which have particularly affected Native Hawaiians, Pacific Islanders, and others already challenged by systemic biases and social inequities, also further counsel the need for these solutions to consider and protect in particular those communities that are too often overlooked or left behind in public policies, socioeconomic development strategies, and government decisionmaking.

The NHPI Hawai'i COVID-19 Team believes that the Mo'omomi CBSFA rule proposal, and the community-driven, traditional ecological knowledge-based approach that it embodies, provides one such solution, and represents a critical and long-awaited step forward towards fisheries management that can promote the resiliency, self-sufficiency, cultural identity, and health of the Native Hawaiian and broader communities on Moloka'i, and throughout Hawai'i.

First, the NHPI Hawai'i COVID-19 Team notes that the rule proposal, although contained in the context of Western "administrative rules," in many ways embodies a traditional fisheries management approach that had helped to sustain a self-sufficient, thriving population throughout the Hawaiian Islands, for centuries prior to contact with the West. As reflected in the Hawaiian Kingdom's formalized adoption of its Konohiki Fisheries Law, this traditional fisheries management approach relied upon the intimate knowledge of both *hoa'aina* (tenants) and *konohiki* (landlords) with respect to the resources and sites of their *ahupua'a*, to determine harvesting and conservation practices in their nearshore waters. Such an approach provided for carefully tailored, place-based practices that ensured sufficient abundance to sustain a population of up to a million or more residents throughout the islands. Sadly, the displacement of Native Hawaiian communities, the commercialization of land and natural resources, the eventual overthrow of the Hawaiian Kingdom, and the subsequent replacement of this traditional fisheries management paradigm with a centralized, top-down, and uninformed management approach, has led to the overexploitation and depletion of nearshore resources along much of our islands' coastlines.¹

Similar to this traditional and highly successful fisheries management approach, the CBSFA rules contemplated here have been developed by those with an intimate knowledge of place developed over generations of close, daily observation of the

¹ See, e.g., Wayne Tanaka, *Ho'ohana aku a Ho'ola aku: First steps to averting the tragedy of the commons in Hawai'i's nearshore fisheries*, 10 ASIAN PACIFIC LAW AND POLICY J. 235 (2008) available at http://blog.hawaii.edu/aplpj/files/2011/11/APLPJ_10.1_tanaka.pdf.

resources and waters of Mo'omomi and adjacent areas; the rules accordingly provide for a formally codified "code of conduct" that has been specifically tailored to address localized management and conservation concerns, and sustain both Mo'omomi's resources, as well as the current and future generations of Moloka'i residents who may depend upon these resources for their subsistence needs and lifestyles.² **With only generic statewide rules to otherwise guide the harvesting practices of any and all who may come to harvest from Mo'omomi's waters – including a growing number of commercial fishers who may be less informed about or connected to the resources they contain, or the communities they support – these rules may be critical to ensuring the resiliency and food self-sufficiency of the Native Hawaiian and broader communities in this region of Moloka'i.**

Second, the NHPI Hawai'i COVID-19 Team notes that this rule proposal has particular salience as one that comes from, and seeks to perpetuate, a cultural "kīpuka," or a community that today serves as a repository of Native Hawaiian values, knowledge, and practices.³ Notably, Moloka'i – which has the highest percentage of Native Hawaiians in its population, second only to the island of Ni'ihau – has been able to maintain a substantial amount of lands and resources that support the continued and active exercise of Native Hawaiian traditional and customary and subsistence practices, which themselves serve to uphold the island's overall character as a cultural kīpuka.⁴ The waters of Mo'omomi and the resources they contain are no exception, and serve as a critical foundation upon which many Native Hawaiian practices, knowledge, and attendant values rely.⁵ **By helping to perpetuate culturally critical resources and practices alike, these Mo'omomi CBSFA rules will thereby enhance the cultural resilience of Moloka'i, and perpetuate Native Hawaiian values, knowledge, and insights that have been largely lost – and that continue to be threatened by the pressures of Westernization and Western socioeconomic values.** The NHPI

² See, e.g., MALIA AKUTAGAWA, ET. AL., HEALTH IMPACT ASSESSMENT OF THE PROPOSED MO'OMOMI COMMUNITY-BASED SUBSISTENCE FISHING AREA, ISLAND OF MOLOKA'I, HAWAII 12, 35-38 (2011), *available at* <https://www.pewtrusts.org/~media/assets/external-sites/health-impact-project/kohala-2016-moomomi-fishing-area-final-report.pdf?la=en> ("Despite these obstacles, Hui Mālama O Mo'omomi has adhered to konohiki [traditional Hawaiian natural resource manager]-based conservation strategies that are modeled on ancient approaches to resource management (e.g., using the traditional Hawaiian moon calendar to monitor fish spawning cycles, feeding habits, and aggregation), and encouraged alternating harvest sites to allow for replenishment and exercising self-restraint in harvesting specific species during their critical reproduction phases").

³ Dr. Davianna McGregor, a leading scholar and expert on Native Hawaiian traditional and customary rights, notes that only a handful of Native Hawaiian communities have managed to continue, unbroken, the traditions and customs of their ancestors. Dr. McGregor has identified the island of Moloka'i as one of the few remaining intact Native Hawaiian communities. McGregor explains that protecting these cultural kīpuka is essential to the perpetuation of Native Hawaiian culture throughout Hawai'i, because they are oases from which "Native Hawaiian culture can be regenerated and revitalized in the setting of contemporary Hawai'i." DAVIANNA PŌMAIKA'I MCGREGOR, NĀ KUA'ĀINA: LIVING HAWAIIAN CULTURE, UNIVERSITY OF HAWAII PRESS 8, 12 (2007).

⁴ JON K. MATSUOKA, ET. AL., GOVERNOR'S SUBSISTENCE TASK FORCE FINAL REPORT (1994).

⁵ AKUTAGAWA, *supra*, at 20 ("Residents of Ho'olehua, most of whom are Native Hawaiian, rely on the coastal area of Mo'omomi for subsistence as well as the preservation of traditional practices and cultural beliefs").

Hawai'i COVID-19 Team emphasizes that such cultural perpetuation, while itself of significant inherent importance, will also serve to preserve values, knowledges, and practices that may prove invaluable as we navigate towards a more resilient, post-COVID-19 future for our islands.

Third, the NHPI Hawai'i COVID-19 Team notes that the adoption of the Mo'omomi CBSFA rules has been predicted to provide substantial and long-lasting public health benefits for Moloka'i's residents. These benefits include those tied to the unique Native Hawaiian cultural understanding of individual and community health as encompassing physical, psychological, and spiritual dimensions, all intrinsically tied to the 'āina, and to nature;⁶ by protecting and perpetuating the natural resources of Mo'omomi as well as the community's ties to such resources, the CBSFA rules will promote Maui Ola, or health, in this comprehensive, cultural perspective. In addition, by reinforcing or promoting cultural identity, the sharing of cultural knowledge, traditional diets, traditional lifestyles, social relationships, and self determination,⁷ the establishment of the CBSFA will address a multitude of "social determinants of health" that may in and of themselves have a significant positive impact on mental and physical health outcomes and the overall quality of life for many Native Hawaiian residents and community members who rely on Mo'omomi as their traditional subsistence fishery. **In the context of the current health pandemic, and with the numerous additional threats and stressors likely to face our islands over the next few decades, the establishment of such rules and policies that can promote positive health outcomes and resiliency for Native Hawaiians may of particular importance.**

Finally, the NHPI Hawai'i COVID-19 Team notes that the benefits realized by the proposed adoption of the Mo'omomi CBSFA rules may even be extended to Native Hawaiian subsistence communities elsewhere throughout the islands, who are currently developing or contemplating their own place-based, community-driven management proposals for their nearshore fisheries. The work of the Hui Mālama o Mo'omomi has already inspired the development and successful adoption of a CBSFA put forward by the Hui Maka'āinana o Makana for their subsistence fishery at Hā'ena, Kaua'i, and numerous other communities have already begun to engage in similar community-driven endeavors to protect and perpetuate their own cultural resources and practices.⁸ These Native Hawaiian subsistence communities have been closely watching and actively supporting the work of the Hui Mālama o Mo'omomi, and the successful establishment of the Mo'omomi proposal will only encourage these other communities' own respective efforts. The precedent established by the successful adoption of the Mo'omomi CBSFA rules may also demonstrate to the State itself how such efforts can significantly further its own environmental and public trust responsibilities, and mitigate

⁶ AKUTAGAWA, *supra*, at 26.

⁷ AKUTAGAWA, *supra*, at 26-45.

⁸ See Kua'āina Ulu 'Auamo, The E Alu Pū Network, <http://kuahawaii.org/e-alu-pu/> (last accessed Aug. 20, 2020); Alex Connelly, *Column: E Alu Pu: Moving forward together, sharing knowledge among generations*, HONOLULU STAR-ADVERTISER, Sept. 18, 2019, available at <https://www.staradvertiser.com/2019/09/18/editorial/island-voices/column-e-alu-pu-moving-forward-together-sharing-knowledge-among-generations/>.

the political uncertainties that have historically inhibited the State from embracing these community initiatives. **By paving the way for the establishment of CBSFAs or similar community-driven management efforts by other communities, the adoption of the Mo'omomi CBSFA rules may help to realize its resiliency, self-sufficiency, cultural perpetuation, and public health benefits for Native Hawaiian communities throughout the islands, as may be critical for this new, post-COVID-19 era.**

Accordingly, for the reasons described above, we respectfully support and urge the adoption of the Mo'omomi CBSFA administrative rules.

Aloha me ka 'oia'i'o,



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