

EXHIBIT 2

**WEST HAWAI'I REGIONAL FISHERY
MANAGEMENT AREA, HAWAI'I
HAWAII ADMINISTRATIVE RULES 13-60.4**

WRITTEN TESTIMONY

From: Aaron Iha <aaroniha3@gmail.com>
Sent: Saturday, November 2, 2024 7:30 PM
To: DLNR.AR.Rulemaking <dar.rulemaking@hawaii.gov>
Subject: [EXTERNAL] Pakaikui reporting

Hi I figured I write in with my two cents on this proposal. I think it would be much more beneficial to have reporting and registration for other more popular fish around the islands. Pakakui are not a fish that many divers target in large numbers and I personally don't see the point or benefit this will have. It seems to me that if we had reporting on more popular fish such as ulua or maybe uhus that would be much more beneficial. Many fishermen and divers that I know often feel like dlNr is wasting their time and efforts on things that don't really matter and this to me feels like another one of those things. I personally would be very supportive of registration and reporting on the catch of uluas because then the state could get a better idea of how many are being caught and hopefully it would lead to stricter regulations. If there ever is discussion on more regulations for uluas I would be very supportive of slot limits being implemented to protect the big breeders.

Thanks,
Aaron

Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Re: Relating to the Proposed Amendment to Chapter 13-60.4 “West Hawai‘i Regional Fishery Management Area, Hawai‘i”

Aloha Chair Chang and members of the Board of Land and Natural Resources,

My name is Abigail Mawae, and I am a current student at the University of Hawai‘i, William S. Richardson School of Law. I am writing to oppose the proposed amendments to the Department of Land and Natural Resources, Division of Aquatic Resources, Chapter 13-60.4, West Hawai‘i Regional Fishery Management Area, Hawai‘i.

As a Kānaka, mālama ‘āina means the protection and care for our land and resources, including the species that provide subsistence for our people. But the proposed moratorium on Pāku‘iku‘i establishing a zero-bag limit for 10 years unfairly burdens kānaka who fish for Pāku‘iku‘i as a source of food. The DLNR and DAR fail to provide any data showing how the current moratorium protects the Pāku‘iku‘i population. The DAR indicates that the Pāku‘iku‘i population declined between 1999 and 2021 in specific locations but does not consider this effect as an outcome of overfishing by the aquarium trade—which takes large numbers of Pāku‘iku‘i before they can reproduce, significantly depleting their numbers. Further, no data indicates that the current moratorium from 2021 has made any significant impact on increasing the Pāku‘iku‘i population. Therefore, the current extension of the ban is unjustified without quantifiable data demonstrating its usefulness.

This new rule, while trying to restore and preserve the population, unfairly burdens kānaka who fish Pāku‘iku‘i for subsistence purposes and punishes them for the acts of aquarium harvesters. The history of Hawai‘i shows that repeatedly, Kānaka unjustly suffered from the actions of others, and this regulation—if passed—continues that history. The conservation of fish resources and the need for a more sustainable future where kānaka can live off the ‘āina will always be competition concerns. Still, without solid data that demonstrates the necessity of this regulation and an explanation for the number of years the moratorium is being extended, this regulation is unwarranted. To continue forward with these regulations, many fishers have testified how the rule

unfairly targets k̄anaka subsistence fishers and impedes their exercise of traditional and customary practices. Because of this, I oppose the Proposed Amendment to Chapter 13-60.4, West Hawai'i Regional Fishery Management Area, Hawai'i.

Mahalo nui for your time,
Abigail Mawae

Addison Davis

November 20th, 2024

Re: Proposed amendment of Hawaii Administrative Rules (HAR) chapter 13-60.4

To whom it may concern,

I am writing to express my thoughts regarding the proposed amendment of Hawaii Administrative Rules (HAR) chapter 13-60.4. I am a graduate student at the University of Hawai'i and have a background in Natural Resources and Environmental Studies. While I generally support enhancing protections for Pāku'iku'i, I believe that the agency should simultaneously consider how to allow Kānaka Maoli to sustainably use traditional fishing resources.

The first proposal would extend the moratorium regarding Pāku'iku'i for two additional years. After attending the public hearing on November 13th it appears that there is a lack of public information regarding the conservation status of Pāku'iku'i. I believe that the two year moratorium should be extended to provide the agency with more time to research and understand the health of the Pāku'iku'i, and communicate that information to the public stakeholders. I did appreciate the agency's efforts at holding a Pāku'iku'i symposium earlier this year to incorporate community knowledge into the rulemaking, but I believe it also highlighted the lack of information regarding the species. I support the extension of the two year moratorium, if the agency can use the time effectively to better understand how to appropriately manage Pāku'iku'i.

The second proposal would require mandatory registration of Pāku'iku'i fisherman, and would set a bag limit of 0 Pāku'iku'i through the year 2036. This aspect of the proposal received significant criticism from fishermen in West Hawai'i, and I express my support for their concerns. Foremost, the purpose of a public hearing is to provide the public with the opportunity to provide oral or written testimony. Stakeholders from the fishing community expressed how the agency needs to do a better job at informing the public of the proposed amendments, so that their voices have the opportunity to be heard. The public hearing had a small number of community members in attendance, and I worry that amending HAR chapter 13-60.4 without stakeholder participation could result in agency rulemaking that unfairly impacts local communities.

Members at the public hearing expressed frustration for how this amendment fits into the complex web of DAR regulations, and I support their concerns. The existing regulations and fishing boundaries are confusing for fisherman to understand and follow, and there is a lack of agency enforcement. I believe that the agency should extend the two year moratorium to better communicate the existing regulations to the public and thoroughly explain how these amendments interact with existing fishing regulations. There are already fishing license requirements established by the agency, and I

believe they should better articulate how the amended registration requirement fits into the existing obligations of fishermans to obtain licenses and permits.

A bag limit of 0 through the year 2036 would prohibit Kānaka Maoli from accessing traditional fishing resources for a substantial period of time. I believe that their interests could be balanced with the need to conserve and prevent exploitation from the aquarium industry. While I support the stringent regulations preventing commercial exploitation of the species, this should be done in a way that can allow local fishermen who have used fishing resources for millenia to continue their tradition. I believe that the agency should wait to establish a bag limit for Pāku'iku'i once they collect more data regarding the conservation status of the fish, and communicate the needs of the species to the public. I believe that local fishermen share conservation goals in maintaining the species for future generations, but their voice must be heard in order for the regulations to be respected and effective.

With Gratitude,
Addison Davis

Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Aloha Board of Land and Natural Resources, DAR, and Committee Members,

My name is Alexys, and I am submitting this written testimony to express my opposition to the proposed passage of Title 13, Chapter 60.4-4, providing that no person shall “take or possess any pāku‘iku‘i before December 17, 2036”. I deeply value the preservation of Hawai‘i’s natural resources and respect the efforts of the DAR to ensure the long-term sustainability of the fish. This proposed measure, however, lacks the foundation and community engagement necessary to justify such an extensive ban.

The proposed regulation, at first glance, appears to be a well-intentioned effort to restore pāku‘iku‘i populations to non-threatening levels. While the initial two-year ban implemented by DAR may have been a reasonable starting point, this new proposal for a twelve-year ban feels excessive and lacks a clear evidentiary basis. Without robust and updated research to justify such a lengthy prohibition, the timeline appears arbitrary rather than grounded in sound science. Furthermore, the Board’s proposal to reduce the bag limit from four to zero raises significant concerns. While I do not have a specific recommendation for an appropriate bag limit, it would be far more constructive for DAR to provide transparent data on the current state of pāku‘iku‘i populations and the rationale for a complete ban. This information would be critical to ensuring that the community understands and supports any such measures.

From my research, I read a lot of articles discussing the ban imposed as early as 2022, and have read that some people have seen a decline in pāku‘iku‘i. Articles discuss the “dangerous decline” with nothing further. An article released just two years ago in December 2022 provided that the “DAR is working with coastal communities. . . to better understand pāku‘iku‘i life history traits that will support a more robust understanding of their stocks[,]” but I do not see anywhere new information discussing any progress or findings in that realm. It makes no sense to ban taking per day for an entire decade with no hard statistics demonstrating why.

While data from the DAR and the National Oceanographic and Atmospheric Administration (NOAA) highlighted the decline of the species beginning in the early 2000’s, this information is twenty years old. It seems unfair to punish and impose restrictive measures today, penalizing future generations for circumstances that occurred so long ago, which most had no effect on.

The decline in pāku‘iku‘i populations has been widely discussed, but I have yet to see clear and current data that demonstrates why a twelve-year ban is necessary or how it was determined that this timeframe would be effective. Many of the studies cited reference population declines from as far back as the early 2000s with no updates. The recent two-year ban from 2022 can prove to be helpful if the results from the ban are published. . . did this two-year ban from 2022 lead to any measurable improvements in population size or health of the fish? After two years of this ban, has there been an increase of pāku‘iku‘i? A decrease? Any data at all? Without this information, it is difficult to support a proposal like this, when a ban is already in place with no data to show.

Furthermore, the proposal overlooks the impact on Native Hawaiian practices and subsistence fishing. Pāku'iku'i has long been an important food source for local families. This proposed blanket ban for over a decade could disproportionately affect those who rely on these fish for sustenance, especially when alternative solutions might achieve similar conservation goals. As mentioned before, I do not have a proposal for what the bag limit should be as I am not as well-informed as those affected community members or even the researchers studying pāku'iku'i, but it does not take an expert to realize that a blanket ban is excessive. I am not convinced that the local people who eat pāku'iku'i for survival or cultural ties are alone going to deplete an entire fish population.

Another concern I have with this proposal is the lack of public awareness and outreach surrounding this issue. From my research and observation, it appears that many local fishermen were not even aware of the initial two-year ban implemented in December of 2022. If enforcement and education efforts during that period were insufficient, it is likely that this extended ban will face similar challenges.

In conclusion, I deeply appreciate the DAR's commitment to protecting our ecosystems, and I support efforts to preserve species like pāku'iku'i. However, I believe this proposed regulation, as it stands, requires further refinement to balance conservation goals with the needs and realities of our local communities. I urge the DAR to provide updated data, consider more adaptive management strategies, and prioritize meaningful engagement with those who will be most affected by these policies.

Thank you for taking the time to consider my testimony and for providing a platform for public input on this important issue. I am grateful for the opportunity to share my concerns and hope that they contribute to a more thoughtful approach to safeguarding our natural resources. This is a great step and wonderful outreach to hear from people most affected.

Mahalo nui loa,
Alexys Delgado

November 17, 2024

TO: David Sakoda, Fisheries Program Manager
Division of Aquatic Resources, Department of Land and Natural Resources

SUBJECT: Written Testimony for the Proposed Amendment of Hawaii Administrative Rules Chapter 13-60.4, "West Hawai'i Regional Fishery Management Area, Hawai'i"

My name is David Shinsato and I am providing written testimony regarding the proposed amendment to the Hawaii Administrative Rules Chapter 13-60.4. Specifically, **I am providing testimony regarding the proposed amendment 13-50.4-4(7) regarding the extension of the restriction on taking or possessing Pāku'iku'i until December 17, 2036.** I have no issue with the term "Pāku'iku'i" being added to the Definitions section of the Chapter or the addition of the Miloli'i community-based subsistence fishing area to the list of regional fishery management areas.

Although I fully support the intent of the proposal to protect and preserve the Pāku'iku'i, I had concerns with (1) the proposal to place restrictions for ten years after the proposed extended moratorium, and (2) the practical enforceability of bag limits and related registration and reporting requirements.

(1) The proposal to restrict the taking and possessing of Pāku'iku'i for ten years after the extended no-take moratorium sunsets in December 2026 seems excessive.

The current moratorium put into place on December 19, 2022 the DLNR's rulemaking authority allowed for an initial two-year moratorium with the option for the BLNR to extend for up to one year at a time. Just two years ago the DLNR deemed it a year-by-year issue. To propose then a further ten-year period to restrict the taking and possessing of the fish seems to be an excessive extension. Although it was mentioned that DAR was interested in gathering more data during this period, the ten-year extension appears to the lay onlooker to be just an arbitrary number. If there is data to argue for the ten-year period, DAR should make it known to the public especially if the goal is to gain public support.

(2) The proposal to set bag limits per person per day, in addition to registration and reporting requirements, without a concrete plan for enforcement is also concerning.

The specific call for testimony for setting bag limits during the proposed ten-year period brings to question the mechanisms of enforcement, which many of the oral testifiers at the public hearing brought up. Even if the rules are put into place, if it is not enforceable, it will only be punishing the law-abiding citizens who are aware of and go out of their way to follow the rules. Furthermore, with the heightened obligations arising from the registration terms and conditions and monthly reporting requirement, one can only imagine that would be more reason for noncompliance, whether by ignorance or intention. Again, I wholeheartedly agree with the intent for these proposals, but the heightened restrictions, with the complexities of the process, seem to be only creating a barrier for those actively keeping up with the rules, and would most likely not deter those who are not.

I am grateful that DAR is actively concerning itself with specific species of fish that may need protection, but I believe that providing more information and explanation as to the reasoning for proposed rules and amendments in addition to proposals of enforcement plans, would greatly increase the propensity for the public to be supportive. Thank you for this opportunity to provide written testimony on this matter.

Respectfully submitted,
David Shinsato

Tuesday, November 19, 2024

Mr. Brian Nielson, Administrator of the Division of Aquatic Resources
Attention: **Mr. David Sakoda**, Fisheries Program Manager
The Department of Land and Natural Resources, State of Hawai‘i
1151 Punchbowl Street, Room 330
Honolulu, Hawai‘i 96813

Aloha Mr. Sakoda,

Thank you kindly for the opportunity to submit testimony on the proposed amendment of Hawai‘i Administrative Rules (HAR) § 13-60.4-2(c), adding the Miloli‘i Community-Based Subsistence Fishing Area to the geographical jurisdiction, § 13-60.4-3, adding the definition of pāku‘iku‘i, and § 13-60.4-4, placing a twelve year (continued) moratorium on the taking or possession of pāku‘iku‘i. For the reasons set out below, I support the proposed amendment to HAR § 13-60.4-3 but oppose the proposed amendment to HAR § 13-60.4-4. I would like to note, though, that my opposition to the latter is based on the need for further explanation and transparency rather than the substance of the amendment itself.

I do not, here, present any views on the proposed amendment of HAR § 13-60.4-2(c). There was limited testimony on this particular amendment, and I do not feel adequately informed to speak on this topic.

To start off, I am not a fisherman nor do I reside on the island of Hawai‘i. I am a graduate student who lives on the island of O‘ahu. The primary basis of the forthcoming testimony is my interest in the amendment process and regulatory approach. I attended the public hearing on Wednesday, November 13, 2024, via the live YouTube broadcast. I turn now to my opposition to the proposed HAR § 13-60.4-4 amendment.

Like many who gave oral testimony at the hearing, I believe that it is critical to answer certain questions before an informed decision about whether or not to support the proposed amendments can be made. This begins at the Division’s presentation to the Board of Land and Natural Resources. Though attendees of the hearing were informed that the Division’s original proposal was a two-year moratorium on the catching of pāku‘iku‘i, followed by a ten-year restriction, or “bag limit,” on how many pāku‘iku‘i can be harvested, the rationale behind the Board’s suggestion to impose a twelve-year moratorium instead was not revealed. Without first understanding the basis for that suggested course change, the proposal cannot be fairly evaluated.

More fundamentally, however, a question was posed and remains as to the data supporting even the two-year moratorium and ten-year restriction, as originally proposed, much less the twelve-year moratorium advised by the Board. Several of those who testified at the November 13, 2024 hearing shared their desire for further transparency and accountability in this decision-making process. Though I appreciate the Division’s diligent efforts to solicit public

comments on these proposals, the public's ability to effectively consider these proposed amendments depends, in large part, on its ability to weigh the reasons behind the amendments, whether that be the Division's initial proposal or the Board's suggested change. Without such insights, the public can offer instinctual reactions to the proposal but will be ill-equipped to meaningfully participate in the process. Meaningful participation relies on the opportunity for the public, and community stakeholders in particular, to engage with the rationale set forth by the Division or the Board and to either affirm or challenge that reasoning. This step, I believe, is necessary before the Division can make a prudent decision.

For these reasons, I oppose the proposed amendment to HAR § 13-60.4-4 due to the lack of explanation underlying this proposal and until such time as such explanations can be made available for the public to meaningfully respond to.

Relatedly, if the proposed amendment prohibiting the taking or possession of pāku'iku'i is not appropriate for resolution at this time (pending a more meaningful engagement with the public), the proposed amendment to HAR § 13-60.4-3 may be rendered pointless. If no further regulation is to be imposed on the taking or possessing of pāku'iku'i, it follows that a definition thereof may be unnecessary. I recognize, however, that pāku'iku'i is regulated in the status quo and, moreover, the mere existence of the proposed moratorium suggests that pāku'iku'i may continue to be an appropriate area of study going forward. Therefore, despite the fact that the HAR § 13-60.4-4 amendment seems premature at this stage, the focus on pāku'iku'i does not, and, thus, adding a definition of pāku'iku'i seems nonetheless valuable. It is for these reasons that I support the proposed amendment to HAR § 13-60.4-3.

Lastly, a larger issue emerged from the testimony offered on November 13, 2024: the practicability of such regulations in the first place. Though many stakeholders who attended the hearing were sympathetic to efforts and desires to sustain pāku'iku'i populations, many felt that such efforts, however admirable in purpose, had failed to provide any substantial impact or benefit. Several attendees lamented the fact that pāku'iku'i, in recent years, has been and is currently subject to a moratorium, which does not seem to be abided by nor enforced. If, indeed, violations are common, unaddressed, and undeterred by the Division or the Department, such regulations, in the first place, lose significance. If this is the case, even the data supporting the proposal becomes irrelevant because the regulation, even if imposed, lacks consequence. Though I cannot, from personal experience, speak to whether or not enforcement is a prevalent problem, specifically with respect to fishing restrictions, I share the sense that the promulgation of regulations, however well-reasoned or prudent, is simply futile and wasteful without compliance and enforcement.

Under such circumstances, if they are true, the prudent path forward is not the promulgation of further regulations. Even if, as may very well be the case here, a regulation is wise and measured, the first step must be to address the enforcement and efficacy of such rules. Whatever energy and resources are being directed towards the consideration and promulgation of

new regulations ought to be diverted to implementing enforcement systems and mechanisms that will breathe new life into not only new regulations but those that have long been there. Only then can efforts be properly focused on new areas of concern and potential regulation; only then will the Division and the Department be empowered to actively protect and improve our State's precious resources.

Thank you again for the opportunity to submit testimony on this proposal, and thank you kindly for your consideration. Please let me know if you have any questions or concerns regarding the foregoing testimony. I can be reached at elijah28@hawaii.edu or at (808) 679-7897.

Thank you kindly,
Elijah Lee

DLNR Hearing on Chapter 13-60.4
West Hawai'i Regional Fishery Management Area, Hawai'i
Hearing: November 13 , 2024 @ 5:30 PM
West Hawaii Civic Center
Opposition for Amendments
Relating to the Division of Aquatic Resources

Aloha David Sakoda, Chris Teague, and DLNR staff,

My name is Emma Palmer and I am a 3L law student at the William S. Richardson School of Law. I am interested in this subject matter because I spend a lot of time in the ocean and I care about the sustainable management of aquatic resources. I do not support the amendments to set the bag limit at 0 until 2036 because it prevents Cultural Practitioners and community members from fishing in a responsible and sustainable manner, and it does not appear to be based on sound rationale.

I am against 1) extending the moratorium on the taking of Pāku'iku'i through 2036. I am for 2) establishing a Pāku'iku'i Fisher Registration requirement with registration Terms and Conditions for any take of Pāku'iku'i, including mandatory Pāku'iku'i catch reporting, through 2036. However, I am against establishing a bag limit of zero (0) Pāku'iku'i per person per day through 2036. Instead, I am for DLNR facilitating further discussion on bag limits.

It is important that agency rationale is available for public review. Without a clearly articulated basis for this amendment, it appears arbitrary and thoughtless. We have seen the dangers and impacts of this kind of decision-making in the past. It may lead to a general disregard for the rule itself and a general disrespect for the integrity of the agency that promulgated the regulation. Where there are not sufficient enforcement mechanisms to ensure compliance, and the agency is largely reliant on the community's goodwill and internal accountability, these issues are compounded.

If this amendment is passed, the best-case scenario is that the Department will have the opportunity to assess the current population of the Pāku'iku'i to inform future policy decisions. I understand that additional data is needed before informed management policies may be effectively written and implemented. I do support the idea of designating fish replenishment areas in vulnerable places on a seasonal or short-term basis. I do support the restricted fishing of this species to promote and enable research and monitoring of the resource and its habitat. However, there is no information in the record (that I have seen) for the community to review the methods with which the population of Pāku'iku'i will be assessed. Will DLNR allocate resources and manpower to consistently monitor the population of Pāku'iku'i throughout the West Hawai'i Regional Fishery Management Area? This seems unlikely.

Additionally, I do not think that the burden for replenishing the population should be on individual fishermen and fisherwomen when the cause of the population may very well be unsustainable development, overdevelopment, increased erosion, or habitat degradation from pollution. As an aside, I do think the collection of this species for aquariums should be prohibited, and that this species should not be sold for profit.

There is a real opportunity here for the community to be empowered as citizen scientists to address the seemingly sparse existing data regarding the population of Pāku‘iku‘i. If bag limits were increased to something above zero, perhaps 2, and reporting requirements were encouraged moving forward, 1) DLNR would have the opportunity to collect data on a species of concern and 2) community members would actively be involved in the stewardship that DLNR intends to encourage. This collaborative approach is most likely to be successful if the community is not completely cut off from fishing Pāku‘iku‘i for an extended period of time.

There is a way to encourage goodwill and meaningful community engagement throughout this process. I think that a collaborative approach would be more successful in the long term and would encourage the meaningful stewardship of marine resources for future generations. I understand that DAR needs tools to enforce compliance with fishing regulations, and community members know their community’s resources best because they are most proximate. Community members are in the water every day, week after week. They are the ones who know which bait to use, what fishing gear to pack, and which areas to check for Pāku‘iku‘i. Although there may be a dearth of data, there is an active community of fishermen and fisherwomen who are likely intimately familiar with the behavioral patterns and ecological needs of this species. DLNR would do well to listen and learn from them throughout this process.

Again, I ask that the Division of Aquatic Resources amend Chapter 13-60.4 to allow the community a bag limit for Pāku‘iku‘i that is higher than 0, and that the number that is settled on is sufficiently informed by community feedback. I support the moderated, regulated taking of this species for subsistence or for cultural or religious purposes.

Thank you for your time and consideration. You can reach me at (830) 563 7508 or at emmabp@hawaii.edu if you have any questions about my testimony.

Mahalo,

Emma Palmer

To: The Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

From: Erina L. Yamamoto (erinayam@hawaii.edu)

Date: November 19, 2024

Re: Proposed Amendment of Hawaii Administrative Rules Chapter 13-60.4

Aloha,

I am writing to submit written testimony in partial support of the proposed amendments to Hawaii Administrative Rules (HAR) Chapter 13-60.4. I am currently a law student at the William S. Richardson School of Law at the University of Hawai'i. As a student, my interest in this amendment is from an environmental policy and administrative law perspective.

I am writing in support of extending the moratorium Pāku'iku'i for an additional two (2) years, or until December 2026. However, I do not support the subsequent ten (10) year moratorium with additional bag limits and reporting requirements.

It has been suggested that the Pāku'iku'i population was impacted most significantly by the commercial aquarium collection industry. In 2017, DLNR enacted a commercial aquarium fishing ban in the WHRFMA. I believe a modest extension of the moratorium would be beneficial to allow additional time for the Pāku'iku'i population to be replenished. However, subjecting non-commercial fishers to the ten-year bag limit and recording requirements appears unreasonable.

I believe that DLNR should provide additional data provided regarding the Pāku'iku'i population and other data relevant to these amendments before December 2026, in conjunction with continued outreach efforts and public scoping events to allow for input from the West Hawai'i fishing community.

Thank you for the opportunity to testify.

Sincerely,

Erina Yamamoto

To: The Department of Land and Natural Resources and the Division of Aquatic Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

From: Justine Park, law student
jspark3@hawaii.edu

Date: November 19, 2024

Re: Proposed Amendment of Hawaii Administrative Rules (HAR) chapter 13-60.4

Aloha Chairperson Chang, members of Department of Land and Natural Resources, and the Division of Aquatic Resources.

My name is Justine Park and I am a third-year law student at the William S. Richardson School of Law. As a student, my interest in this amendment is both from an Administrative Law perspective and an Environmental Policy perspective. Thank you for the opportunity to give written testimony regarding the proposed amendment to Hawaii Administrative Rules (HAR) chapter 13-60.4.

I support the amendment for extension on take of any pāku'iku'i for an additional two years. I believe the short term extension of this moratorium will increase the likelihood that pāku'iku'i populations will continue to thrive so that future generations may continue fish and enjoy this species.

I do not support continuing the moratorium for an additional ten years for the reasons below:

I briefly read the NOAA Fisheries "Stock Assessment Update for the Main Hawaiian Islands Deep 7 Bottomfish Complex in 2021, with Catch Projections Through 2025" and attempted to research current data on the Acanthurus Achilles on the NOAA website. I found that the scientific findings that NOAA undoubtedly possesses are not easily found on the website and the information is not easily understandable for a lay person without a scientific background.

Among the species that NOAA Fisheries monitors, like in "Status of Stocks 2023" by NOAA Fisheries, the agency does not mention the paku'iku'i (Acanthurus achilles) at all. I looked

outside NOAA to see if there were studies that are publicly available that support the finding that the paku'iku'i is depleted but even on the Hawai'i Wildlife Fund which says, "Experts recently described this species as "dangerously depleted"[.]", the source of that quote and the experts they refer to are unavailable and unclear.

Additionally, in researching the *Acanthurus Achilles* (paku'iku'i) outside of NOAA, the general consensus is that this fish is neither endangered or of serious concern. (<https://fs.wp.odu.edu/wp-content/uploads/sites/756/2016/03/Surgeonfishes-SIS-draft-accounts.pdf>)

As a result, I do not support the extension of the moratorium for longer than two more years since there seems to be no concrete scientific basis for prohibition on take. I believe that the moratorium's intent to protect the species in this case does not outweigh the concern by Hawaiian fishermen that was expressed at the hearing on 11/13/2024.

If the Division of Aquatic Resources provides the sources that support the moratorium for an additional ten years, I would support this amendment. However, both at a national level and local level, there is a lack of support for the finding that the *Acanthurus Achilles* population is depleted enough to necessitate a long-term suspension of take.

Thank you for your time and consideration of my testimony. Please feel free to contact me with any questions at jspark3@hawaii.edu.

Sincerely,

Justine Park

Korynn Grenert
November 18, 2024

Testimony for DLNR-DAR's proposed changes to HAR chapter 13-60.4

Good morning, DLNR-DAR.

My name is Korynn Grenert, and I am a law student at the William S. Richardson School of Law. My enrollment in an Administrative Law class led me to DLNR-DAR's public hearing on Wednesday, November 13, 2024.

I am emailing you today with testimony regarding the three proposed amendments to Hawaii Administrative Rules chapter 13-60.4. After attending the public hearing on this matter, listening to public commentary, and researching the implications of the proposed amendments, I oppose all three proposed amendments to the fishing of pāku'iku'i in the West Hawai'i Regional Fishery Management Area off Hawai'i island.

I oppose the first proposed amendment for multiple reasons. First, because the original two-year moratorium on the taking of pāku'iku'i was established under the State's adaptive management rulemaking authority—the first time DLNR-DAR has used this authority to adopt a rule—the option to extend a moratorium on pāku'iku'i was supposed to be limited to one year at a time. However, here DLNR-DAR is proposing to extend the moratorium for an additional two years. This additional two-year extension on the moratorium should be reduced to a maximum of one year, as originally proposed, with the possibility of additional one-year extensions.

I also oppose the first proposed amendment because the local community fishing in the West Hawai'i Regional Fishery Management Area overwhelmingly opposes this extended moratorium, with many claiming they did not even know there had been a moratorium for almost two years now. This community, which has many people of Native Hawaiian descent, relies on hunting and gathering for much of the food they eat. Listening to the input from this community on their desires for management of this population of fish and their reliance on this fish as one of their food sources heavily weighs against DLNR-DAR's proposed amendment to extend the moratorium.

I oppose the second proposed amendment for multiple reasons. First, the establishment of a registration and reporting requirement for ten years following the additional two-year proposed moratorium will put a financial burden on the fishermen who fish for pāku'iku'i. This community testified during the meeting that they are not sure where the money from fishing registrations go, as they do not see it going into the enforcement of fishing regulations nor the betterment of fishing grounds. Further, one of the testifiers said he had seen illegal fishing of pāku'iku'i numerous times over the last two years but had never seen enforcement of the moratorium by DLNR-DAR. Additionally, also based on testimony I heard during the meeting, the limited amount of data obtained by DLNR-DAR on the pāku'iku'i population demonstrates that the money is likely not going back into research for the pāku'iku'i. DLNR-DAR's proposed registration requirement would only place financial and procedural hardship upon a community that has been fishing pāku'iku'i for generations and who will struggle to meet these requirements in order to obtain this basic human need—food.

I also oppose the second proposed amendment because the bag limit of zero (0) pāku'iku'i per person per day as a "placeholder to facilitate further discussion on bag limits" may never be amended by DLNR-DAR and will effectively serve as an additional ten-year moratorium on top of the proposed two-year extension of the moratorium. Based on the lack of data collection on pāku'iku'i during this first two-year moratorium, DLNR-DAR is likely to move equally as slowly in having community discussions, collecting more relevant data, and making any proposals and subsequent decisions that increase the bag limit beyond zero. What's more, these discussions, data collections, and protective rulemakings are taking DLNR-DAR's limited resources away from fish species and populations that the larger community—not just limited to those who fish in the West Hawai'i Regional Fishery Management Area—are much more worried about than the pāku'iku'i. DLNR-DAR should focus their energy, time, resources, and attention to fish populations that are in more critical need of protection than the pāku'iku'i.

I oppose the third proposed amendment for the reasons discussed earlier. Adding the Miloli'i Community-Based Subsistence Fishing Area to the jurisdiction of this chapter and these proposed amendments to the fishing of pāku'iku'i will only impact the types of fish that a larger number of fishermen are allowed to take and will take more resources from DLNR-DAR to regulate this fishing moratorium (which could be more efficiently used with other fish species). Because sufficient data collection has not been obtained and disseminated from DLNR-DAR thus far during this first two-year moratorium, DAR should be required to show that adding this additional area is more beneficial to the pāku'iku'i population than harmful to the fishermen.

In closing, I oppose all three proposed amendments to HAR chapter 13-60.4 relating to the fishing of pāku'iku'i in the West Hawai'i Regional Fishery Management Area.

Thank you very much for allowing me to submit testimony on this matter and for considering my testimony in your decision. If you would like to contact me regarding my testimony, please email me at korynng@hawaii.edu or call me at (808) 675-8254. Thank you.

Sincerely, Korynn Grenert

To: The Department of Land and Natural Resources and the Division of Aquatic Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

From: Lu Kline, law student
lukline@hawaii.edu

Date: November 19, 2024

Re: The proposed amendment of Hawaii Administrative Rules (HAR) chapter 13-60.4

Aloha, Chairperson Chang, members of the Department of Land and Natural Resources, and the Division of Aquatic Resources. My name is Lu Kline, and I am a third-year law student at the William S. Richardson School of Law. I appreciate the opportunity to testify before you today regarding the proposed amendment to Hawaii Administrative Rules (HAR) chapter 13-60.4.

I support the agency's proposed amendments to extend the current moratorium on the take of any pāku'iku'i for an additional two years, which was initially put in place on December 19, 2022. I also support the agency's decision to add the Miloli'i Community-Based Subsistence Fishing Area to the list of designated areas in the rule. I believe that, with the extended period, we will see a significant recovery of pāku'iku'i in West Hawaii, which will allow for continued fishing and enjoyment of this local favorite.

Regarding the 10-year Pāku'iku'i Fisher Registration requirement for any take and the zero bag limit, I believe the agency should collaborate with local fishermen. It would be beneficial to provide them with additional statistical data to support the agency's decisions, as well as clearer instructions on the registration terms and conditions. This is important because local fishermen will be the group most affected by this rule.

To help concerned citizens better understand the agency's goals and the purpose of this amendment, I suggest that the agency include a key finding report or a scientific data report to support its position. For example, a report could illustrate the decline in Pāku'iku'i populations over the past few years. In addition to extending the prohibition on taking Pāku'iku'i for additional years, it would be beneficial to include any measurements that the agency has taken or plans to take to preserve Pāku'iku'i.

Thank you for taking the time to read my testimony. I greatly appreciate your consideration of my testimony. If you have any questions, please feel free to contact me at lukline@hawaii.edu.

Sincerely,
Lu Kline

Aloha to the Department of Land and Natural Resources (DLNR), Division of Aquatic Resources (DAR). I am writing regarding the proposed amendments to the West Hawai'i Regional Fishery Management Area on the Big Island concerning regulation on taking Pāku'iku'i.

My name is Ryan Witthans. I have spent the majority of my life living on the Big Island of Hawai'i, enjoying the abundance Hawai'i has to offer. As I grow older, I worry about the future my children and the next generation will have. Without adequate regulation, it is only a matter of time before selfish (or, at best, ignorant) individuals will overfish local populations of fish until they are badly depleted or extinct. For that reason, I am in favor of each of the following proposed amendments: 1) Extending the moratorium on take of any pāku'iku'i for two years, (2) a fisher registration requirement with terms and conditions for the following ten years, and (3) other non-substantive amendments, including adding Miloli'i Community-Based Subsistence Fishing Area as a protected area.

I support all of the proposed amendment because, although the risk of devastating the Pāku'iku'i population to extinction is currently unknown, it is a possibility we should avoid at all costs. Each species in an ecosystem may be crucial to that ecosystem's health and survival. Pāku'iku'i, which live in the pacific and usually off the edge of coral reefs, may be crucial to ensure those coral reefs stay healthy, especially considering the rate at which our reefs are disappearing. Admittedly, I do not study aquatic wildlife. Nevertheless, I understand that taking precautions is the safer option. Because I want to ensure that Pāku'iku'i and other local fish remain for our posterity, I support prohibition on taking of the fish, registration requirements, and even more terms and conditions, at least until data supports Pāku'iku'i survival.

Now, many may argue that regulating the take of Pāku'iku'i is not necessary, unfair to considerate fisherman, or unduly burdensome. And they may be right. They pale in comparison, however, to the alternative. To avoid unfairly burdening active fisherman by allowing the take of Pāku'iku'i would be to risk unfairness to all future fisherman of Pāku'iku'i.

Overall, I am in complete support of each proposed amendments. Thank you for reading my submission.

Please feel free to reach out to me at ryanwitt@hawaii.edu.

Best,
Ryan Witthans

My name is Sigrid Howard and I am a student at the William S. Richardson school of law. I am interested in this matter both as a student of environmental and Native Hawaiian rights law and as a lifelong resident of the Big Island. I believe the DAR should more thoroughly study the status of pāku'iku'i and the impact of fishing practices on the population before extending the take moratorium in the West Hawai'i Regional Fishery Management Area.

As the November 13th meeting on the issue evidenced, residents who fish in the West Hawai'i Regional Fishery Management Area do not feel that the issue has been adequately studied. Conducting more research before extending the moratorium for a decade might help assuage their concerns and make working with the community easier and more effective. Additionally, further research might help clarify exactly what the bag limit should be, since the limit of zero appears to just be a placeholder. Given that many of the people providing testimony were Native Hawaiian sustenance fishermen and women, it seems that the issue deserves further scrutiny before more permanently depriving Miloli'i residents and other Native Hawaiians of their access to pāku'iku'i.

I believe that the DAR should undertake further research and solicit more comments from people who fish in the West Hawai'i Regional Fishery Management Area, particularly those from Miloli'i because of their strong Native Hawaiian rights and sustenance fishing interests in access to pāku'iku'i.

Thank you for your consideration. In case you need to reach me for any reason, my email is chiller@hawaii.edu.