



NON-GOVERNMENT (Voting)

Tetsuzan Benny Ron  
*Business Commerce*

Cindi Punihaole Kennedy  
*Citizen-At-Large*

Richard Davison  
*Commercial Shipping*

Barbara (Maka'ala) Kaaumoana  
*Conservation*

Liz Kumabe (Vice-Chair)  
*Education*

Philip Fernandez  
*Fishing*

Alex Sheftic  
*Hawai'i County*

John (Jack) Kittinger  
*Honolulu County*

Sharon Pomroy  
*Kaua'i County*

Solomon Pili Kaho'ohalahala  
*Lana'i Island*

Robin Newbold  
*Maui County*

Walter Ritte  
*Moloka'i Island*

Trisha Kehau Watson  
*Native Hawaiian*

Doug Cole  
*Ocean Recreation*

Adam Pack, Ph.D. (Chair)  
*Research*

Kimokeo Kapahulehua  
*Tourism*

Jim Coon  
*Whale Watching*

Gina McGuire  
*Youth Member (non-voting)*

GOVERNMENT (Non-Voting)

Marnie Meyer  
*DBEDT - OP*

Andrea Gill  
*DBEDT Renewable Energy*

William J. Aila Jr.  
*DLNR*

Elia Herman  
*DLNR - Hawaiian Islands  
Humpback Whale NMS*

Gary Gill  
*DOH*

Sandra Rossetter  
*DOT - Harbors*

Gene Brighthouse  
*NMS of American Samoa*

Malia Chow  
*Hawaiian Islands  
Humpback Whale NMS*

Everett Ohta  
*OHA-Voting*

Take Tomson  
*NOAA OLE*

Lisa Van Atta  
*NOAA Fisheries PIRO*

'Aulani Wilhelm  
*Papahānaumokuākea MNM*

Eric Kingma  
*WESPAC-Voting*

Athline M. Clark  
*US ACOE*

Eric Roberts  
*US Coast Guard*

Rebecca Hommon  
*US Navy*

## Hawaiian Islands Humpback Whale National Marine Sanctuary

### 63<sup>rd</sup> Meeting

Sanctuary Advisory Council  
September 20, 2012, 9:00 a.m. to 5:30 p.m.  
6600 Kalaniana'ole Highway  
3<sup>rd</sup> Floor Conference Room  
Honolulu, Hawai'i 96825

**Purpose:** The meeting will provide reports on the sanctuary's management plan review process, 2012 whale season, cultural and historic resources evaluation (Section 106), enforcement activities, NOAA Fisheries actions, Japan tsunami marine debris and will focus on the sanctuary advisory council Aloha 'Aina Workshop Report. The workshop focused on ways to integrate traditional and place-based knowledge and scientific information in cultural and natural resource management.

Secretary Jack Kittinger takes attendance.

### Attendance

**Primary Council Members Present:** Athline Clark, Philip Fernandez, Sandra Rossetter, Eric Kingma, John "Jack" Kittinger (secretary), Richard Davison, Maka'ala Ka'aumoana, Cindi Punihaole Kennedy, Becky Hommon, Trisha Kēhau Watson, Malia Chow, Liz Kumabe (vice-chair), Doug Cole, William Aila, Marnie Meyer, Everett Ohta, Adam Pack (chair), Take Tomson, Kimokeo Kapahulehua, Lisa Van Atta, Elia Herman, Jim Coon, 'Aulani Wilhelm, Sharon Pomroy, Gina McGuire, Solomon Pili Kaho'ohalahala, Walter Ritte, Gary Gill

**Alternate Council Members Present:** Charter Tschirgi (USCG-for Eric Roberts), Cheryl Sterling (for Robin Newbold), Gordon LaBedz, Judy Lemus, Thorne Abbott

**Excused:** Gene Brighthouse, Andrea Gill, Tetsuzan Benny Ron, Alex Sheftic, Eric Roberts, Robin Newbold

**Others Present:** Joseph Paulin, Paul Wong, Fiona Langenberger, Brenda Asuncion, Patty Miller, Ed Lyman, Ka'au Abraham, Jean Souza, Justin Viezbicke, Alexa Cole, Carey Morishige, Leo Asuncion, Rachel Sprague, Nina Monasevitch, Kevin Kelly, Mel Wills, Kalasara Setaysha, Charles Steinback, Emily Makini, Greg Holzman (via telephone)

Chair Adam Pack reviews the agenda and welcomes everyone to the meeting.

Kēhau Watson moves to approve the 62<sup>nd</sup> meeting minutes. Liz Kumabe seconds the motion. The motion passed with unanimous approval.

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Adam Pack reviews additional activities that have occurred since the January 17-18, 2012 council meeting.

- July 5-6, 2012: The Chairs of the Research and Native Hawaiian Subcommittees convened the “Aloha ‘Āina” Workshop. Kēhau Watson will provide a presentation later this morning.
- July 31-August 3, 2012: Hawai‘i Conservation Conference, the sanctuary hosted a panel discussion on the history of the Hawaiian Islands Humpback Whale National Marine Sanctuary that included Allen Tom, Adam Pack, William Aila, Walter Ritte, and Kēhau Watson. The discussion was moderated by Malia Chow and Elia Herman.

### **Enforcement Reports**

Alexa Cole, NOAA General Council, notes that there were no enforcement cases this year. She provides an overview of what her office does, and how it interacts with the sanctuary. The backlog of cases that previously existed has been cleaned up over the past 5 years. The lack of enforcement cases is likely influenced by the outreach and education efforts of the sanctuary, US Coast Guard, and NOAA Office of Law Enforcement (OLE).

Take Tomson reviews the summary of the OLE efforts during the 2012 humpback whale season including the total number of complaints, patrols, education / outreach, and expenses. Charter Tschirgi provides a summary of the US Coast Guard activities within the sanctuary from January through June 2012 including the Marine Protected Resources Pulse Operation, outreach and education, and conference participation. Both Take Tomson and Charter Tschirgi highlight the limitations of their respective budgets, noting that a sanctuary change to ecosystem-based management could include challenges from an enforcement standpoint without budget increases.

Jim Coon discusses an “industry day” that was held for marine tour operators, and describes the industry’s hope for a “safe passage” type of language in regulations (to protect operators as well as the sanctuary) because it’s difficult to maintain the legal distance from whales during whale season because of the high densities. Alexa Cole acknowledges the distinction of violations within a range of circumstances and intentions, emphasizing that cases are analyzed in consideration of circumstances. Take Tomson and Alexa Cole clarify that private organizations cannot have official partnerships or capacity to enforce federal regulations, but that people can always help by being good stewards and good witnesses.

Becky Hommon reminds everyone that one of the outcomes of the council’s recommendations relating to enforcement was to have annual enforcement reports to the council, and that the responsibility of council members is to share the information with

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their constituents so more people can understand that enforcement is occurring in the sanctuary. Everyone acknowledges the contributions of DOCARE to enforcement efforts as well.

### **2012 Whales Season Report**

Ed Lyman discusses the 2012 whale season response efforts. He highlights the value of information-gathering to understand threats to whales. There were 2 confirmed vessel-whale contacts during the 2012 whale season. Ed Lyman highlights analyses since 2002 by vessel type, vessel speed, and whale age classes. He notes that the sanctuary is receiving greater numbers of reports of animals approaching vessels. There were 10 confirmed entanglement reports during 2012. Ed Lyman discussed entanglement response efforts from 2002 to 2012 including whale age classes and gear type. He also made comparisons with entanglement response efforts in Alaska.

Ed Lyman discusses the sanctuary's participation in a recent Western Pacific Regional Fishery Management Council meeting regarding the status of humpback whales in Hawai'i. He discusses that there have been anecdotal reports of humpback whales feeding in Hawai'i and that if any feeding does occur it would likely be opportunistic, minimal, and not have a significant impact on local fisheries. Ed Lyman also notes that humpback whale behaviors associated with communication could also be misinterpreted as feeding behavior. He also discusses how humpback whales provide inputs to the ecosystem through placenta, dead animals, sloughed skin, and excrement that can benefit fish and other wildlife.

Ed Lyman discusses preparations for the upcoming whale season. He highlights the new sanctuary vessel Kohola and research opportunities. He discusses the work he does during the summer in Alaska that is a partnership with the NMFS Protected Resources Division and the State of Alaska. Adam Pack notes that the whales seen in the summer in Alaska are whales from Hawai'i and that it's important to learn about them and threats in Alaska. He also notes that there are growing observations of humpback whales in the Northwestern Hawaiian Islands that could provide a new opportunity to learn about them.

Lisa Van Atta states that the status review of humpback whales has undergone peer review and is nearly final.

### **Introductions**

Council members and meeting attendees briefly introduce themselves.

### **Aloha 'Āina Workshop Presentation and Discussion - Action Item**

Kēhau Watson provides a presentation on the Aloha 'Āina Workshop and report. She provides background and context about the council's working group process and the recommendation that led to the Aloha 'Āina Workshop. She notes that there is global recognition of the need to address culture and conservation together, but that it proves difficult to operationalize. Kēhau Watson explains that the workshop participants had

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capacity in conservation as well as Hawaiian culture, tradition, and community engagement.

Walter Ritte comments on recent federal government efforts to engage the community on Moloka‘i, noting that they don’t know how to talk to the community because they don’t understand the community. He emphasizes that there is definitely a need to have a framework for government entities to engage communities. Phil Fernandez echoes those sentiments regarding the fishing community, and encourages Kēhau Watson to continue developing the idea for use in the future by agencies as well as communities. Sol Kaho‘ohalahala notes that the current federal processes and protocols don’t allow for significant engagement from communities. Athline Clark notes that the next step is to operationalize a framework and that there are already steps being taken. She states that a holistic framework can pull everything together.

Eric Kingma wonders how a lead community organization would be identified since communities are often not homogeneous. Kēhau Watson notes that this process would rely on identification of the place and the resource and would be followed by discussions of appropriate criteria for a good organization.

Judy Lemus wonders if there has been consideration of handbook and training workshops for government agencies. Adam Pack notes that these ideas can be addressed through a working group and that it can be discussed as “new business” in the afternoon.

Jack Kittinger emphasizes that the workshop discussions included a lot of examples of relevant work that is already occurring. He also emphasizes that it was important to have federal and state representatives in the room because the discussions included realistic opportunities. Walter Ritte adds that it is important that this document includes a process to gather appropriate local information because not all places are the same. Phil Fernandez notes that the sanctuary is already making progress in building trust with communities in several different places throughout Hawai‘i.

Adam Pack states that there will be a public comment period.

### **Public Comment**

*Mel Wills:* Holo Holo Charters and the Ocean Users Group on Kaua‘i. In agreement with Jim Coon regarding the challenges that tour boat operators face during whale season, inadvertently breaking the approach rule; modification would be supported. Notes that the Ocean Users Group was invited by the Monk Seal Foundation to help develop the main Hawaiian Islands monk seal plan and that this was very positive; he notes that the framework of engaging local knowledge will go a long way. He states that the majority of the population on Kaua‘i is still opposed to the sanctuary expansion. If the Kaua‘i population can be included in current activities, without expansion, and using the Aloha ‘Āina framework, it would be very positive.

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### **Discussion of Aloha ‘Āina Report (continued) – Action Item**

Maka‘ala Ka‘aumoana describes the discontent on Kaua‘i when agencies ask for comments on actions occurring in other places. She describes that the document should certainly have assertive instructions about how to proceed in place-based work. ‘Aulani Wilhelm notes the potential for this as a training since there is nothing currently available. She adds that supplemental information would be beneficial to describe how this framework could enable agencies to work more successful. Malia Chow provides context for the selection of federal agency representatives who attended the workshop. She notes that their initial skepticism proved to be valuable during discussions.

Sharon Pomroy notes that communities exist on scales even smaller than islands and those discussions need to occur in appropriate communities. She also emphasizes that the Aha Moku Bill that passed last year provides a way to identify the people most knowledgeable about resources at small spatial scales. Sharon Pomroy points out those community members aren’t paid to participate in public processes, but government agency representatives are so there isn’t always consistent and broad community participation. Cindi Punihaole Kennedy agrees that the first step should be going to the community and finding the people most knowledgeable about the local resources. She emphasizes that trust is built when agency representatives walk the talk and commit to what they say they will do.

William Aila points out that within communities there’s been an evolution of an expectation that communities will be consulted. On the other hand government consultations are driven by mandates so there are inherent limitations. He notes that if the first step is an invitation to everyone, no one will be left out, but that communities are also evolving to participate in discussions only relevant to their places.

Gary Gill emphasizes that communities can disagree amongst themselves so there will never be one voice and that there is not a single Hawaiian way of doing things. He notes that engagement processes will likely always be messy and that there should never be an assumption that there will be one way of doing things.

Kēhau Watson clarifies that the document is not meant to describe a single Hawaiian perspective because both the scientific community and cultural communities have wide and diverse discourses. Athline Clark points out that the sanctuary is inherently place-based so it makes sense to apply this in communities wherever it is appropriate. Sharon Pomroy states that there is not an expectation for agencies to talk to everyone in an ahupua‘a, but if there are activities that impact things in the ahupua‘a, people should know about it.

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Maka‘ala Ka‘aumoana moves to forward the Aloha ‘Āina document with minor edits to sanctuary management. Cindi Punihaole Kennedy seconds the motion.

Sol Kaho‘ohalahala comments that he sees himself in the document and that he agrees with Athline Clark that similar activities are already occurring. Liz Kumabe adds that she could see her role in how this could be implemented and she sees that there are realistic expectations in it.

Jack Kittinger records the council votes on the motion. The motion passed with unanimous approval.

Adam Pack adds that the workshop participants will be informed of the council’s approval and the document’s progress.

### **LUNCH**

The council reconvenes and the agenda for the afternoon is modified to begin with the report on cultural and historic resources evaluation (Section 106).

#### **Cultural and Historic Resources Evaluation (Section 106)**

Hans Van Tilburg provides a brief introduction to the National Historic Preservation Act (NHPA) and the Section 106 consultation process.

Phil Fernandez notes that a notification letter should go to all Hawaiian civic clubs not just the main association of civic clubs office.

Sharon Pomroy points out that the term “Native Hawaiian Organization” encompasses individuals not just organizations.

Hans Van Tilburg emphasizes that with regard to historic or cultural properties, “significance” and “eligibility” do not mean the same thing, and even if things / places are not eligible according to NHPA criteria, that doesn’t mean they are not significant or that consideration or protection is unwarranted.

Phil Fernandez asks which boundaries would be considered in the Section 106 process (e.g., the current sanctuary boundaries) and Hans Van Tilburg notes that the Section 106 process has to wait until the various alternatives are identified. There is also clarification that the consultation is not solely for Hawaiian cultural resources or with Hawaiian organizations.

Jack Kittinger asks how sensitive information is handled within a public forum. Sharon Pomroy describes her experiences in meetings where people are excused from the room when they have no involvement in place-specific cultural resources or sites.

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### **Council Member Recognition**

Malia Chow recognizes Phil Fernandez as the Volunteer of the Year for the sanctuary. She notes his work to involve the fishing constituency, leadership as Chair of the Offshore Development Working Group, and assistance in organizing the Aquaculture Workshop.

Malia Chow provides an update on the sanctuary advisory council recruitment process, highlighting that there were many applicants, and that they will be seated at the next meeting. Malia Chow individually recognizes and presents certificates of appreciation to the primary members and alternate council members seats whose terms are completed.

The council watches a short video about Oceans for Life that Youth Member Gina McGuire helped to produce. The video has been nominated for an award at the Blue Ocean Film Festival.

Malia Chow highlights the work of Chris Brammer and the Take Pride in America award that the Ocean Count program won.

### **Management Plan Review (MPR) Update**

Malia Chow provides a summary of the progress made for management plan review (MPR). She highlights the timeline and the council's involvement. Elia Herman adds that the state is a joint lead agency for the NEPA process. She explains that there will be a notice published through the state's office of environmental quality control, so that the HEPA process can be fulfilled at the same time. She notes that there will be a 30-day public comment period following that notice.

Walter Ritte asks for clarification about how a draft plan will be presented to the public, and Malia Chow and Elia Herman note that there will be more engagement than just meetings.

Malia Chow reviews staff activities that directly relate to the overarching considerations (Native Hawaiian Traditional Perspectives, Environmental Impacts, Community Engagement, and Socioeconomic-Livelihoods-Access-Fishing):

- Aloha 'Āina Workshop
- Fishpond permit streamlining process
- Spatial planning for Lāhaina

Malia Chow clarifies that this process can gather information for all activities in the future, not just for the development of the draft management plan for the sanctuary. Jack Kittinger comments that this seems consistent with the thought that community plans can be folded within the sanctuary's plan, but it doesn't have to happen prior to the

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sanctuary's draft management plan because it's more about the process by which this happens.

- Considerations for a no-discharge zone off Maui in the Mā'alaea Bay area.
- Community engagement on Hawai'i Island.
- Considerations for a boundary adjustment to include Ni'ihau, taking into account the impacts to tour boat operators and fishermen. Athline Clark points out that a lot of data has been compiled through DAR in previous analyses of Ni'ihau. Maka'ala Ka'aumoana also points out that the investigation should be for long-range historical information.
- Considerations for a boundary adjustment on the north shore of O'ahu to include the Anahulu River and the established state surf reserves. Doug Cole wonders what the community consultation process would be for this because there are many user groups involved in this area. There is discussion about the value of surfing as a cultural legacy.
- Considerations for a boundary adjustment to include the whole ahupua'a of Hā'ena on Kaua'i.
- A local chapter of the National Marine Sanctuary Foundation recently formed.

Elia Herman highlights additional efforts to support community co-management, interagency coordination and the state-federal partnership.

- Community-based subsistence fishing areas (e.g., Hā'ena). There is clarification that these areas are not limited to occurring within the sanctuary boundaries.
- Makai Watch
- DAR Coral Program priority sites (coral reef working group participation, South Kohala Conservation Action Plan core team member, West Maui).
- Sanctuary submitting comment letters on actions that could affect sanctuary waters.

The council acknowledges the information presented by Elia Herman and Malia Chow is still predecisional and that nothing has been decided but this update is being shared with the council in the interest of maintaining transparency since several of these discussions/meetings are already underway and it important that the council know about these considerations.

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### **NOAA Fisheries Actions Update**

Lisa Van Atta summarizes the general role of NOAA Fisheries Service. She describes the petition response steps for considerations of the Endangered Species Act and provides an update on the status of ESA actions. This includes the monk seal critical habitat, Hawai'i insular false killer whale listing, bumphead parrotfish status review, scalloped hammerhead status review, honu de-listing petition response, loggerhead turtle critical habitat, humpback whale status review, great white shark petition to list northeast pacific ocean DPS, Hawaii monk seal programmatic Environmental Impact Statement (PEIS), and petition to list 82 species of coral. Lisa Van Atta clarifies that the ESA utilizes different criteria than the IUCN red list. Lisa Van Atta also describes actions under the Marine Mammal Protection Act. These include false killer whale take reduction plan and proposed rule for spinner dolphins.

### **Public Comment**

Greg Holzman states that he would like to offer his comment after the new business is discussed. Mel Wills would like an explanation of why the IUCN data is not always used for the NOAA Fisheries assessments. He provides a report compiled by the Ocean Users Group with information relevant to sanctuary activities. Nina Monasevitch notes that temporary no-take zones could probably resolve issues (e.g. pollution and restoring reefs) in the short-term. She notes that she doesn't know of any no-take areas on Kaua'i and that something needs to be done because she has seen degradation.

### **Japan Tsunami Marine Debris Update**

Carey Morishige presents an update on the Japan tsunami marine debris situation. She notes that in the NOAA Marine Debris program's past experiences most debris swept off land sinks close to shore. Satellite imagery suggests that debris has dispersed. Debris movement depends on debris characteristic (e.g. shape and material). The model being used is NOAA GNOME (General NOAA Operational Modeling Environment) which is hind cast with Navy HyCOM data for ocean currents and NOAA data for wind. Debris will likely show up intermittently along the shorelines of Hawai'i over the next year or longer. Carey Morishige emphasizes that marine debris was an issue that existed prior to the Japan tsunami. Hawai'i currently has one confirmed case of marine debris from the Japan Tsunami. Carey Morishige also notes that it is unlikely that radioactive debris and human remains will from the tsunami will be found in Hawai'i. She explains that it is still not known what types and how much debris remains afloat. There are 12 confirmed cases of Japan tsunami marine debris in the Pacific. There is a shoreline monitoring protocol for people to get involved and an opportunity to report at-sea and aerial sightings. She notes that the best way to be updated is the website:

<http://marinedebris.noaa.gov/tsunamidebris>

### **New Business and Discussion – Action Items**

Adam Pack discusses the idea of a Management Plan Review working group to allow council members to maintain high involvement until the next council meeting. Communication would happen over phone or webinars. Adam Pack will identify a chair as the next step.

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Malia Chow discusses the Site Evaluation List (SEL) for the Office of National Marine Sanctuaries. Adam Pack presents a draft letter to Dan Basta requesting to re-activate of the SEL so that new sanctuaries can be considered.

Jim Coon moves that the SEL reactivation letter be forwarded to Dan Basta. Maka‘ala Ka‘aumoana seconds the motion. The motion passed with unanimous approval.

Jack Kittinger describes the 12<sup>th</sup> international coral reef symposium in Australia and the scientific consensus statement on coral reefs and climate change that has been endorsed by scientists worldwide. He notes that it doesn't say what should be done about corals, but it does say that local action matters. He states that he will forward the statement to the council via Joseph Paulin.

### **Public Comment**

Greg Holzman states that he has learned a lot and will bring information back to people he talks to on Kaua‘i. He is in agreement that public processes are messy and notes that there is an open meeting with fishermen on Kaua‘i this Saturday. He also comments that one-on-one meetings can be more fruitful. He emphasizes that open forums are very good, especially when everyone has the opportunity to talk. Regarding Ni‘ihau, he points out that there are many people who live on Kaua‘i that should be consulted because they may be impacted. He also notes that the pattern of movement between Kaua‘i and Ni‘ihau has a long history and it may not make sense to prevent people on Kaua‘i from going to Ni‘ihau. Regarding monk seals, he explains that there shouldn't be different rules on Ni‘ihau than elsewhere. The sanctuary is great at education and it would be wonderful if more people could learn about what the sanctuary is doing (e.g. via webcasts and television).

Adam Pack thanks the council members for their participation and members of the public for attending and providing comment and adjourns the meeting.

**PAU**

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