



**ACTION ITEM**  
**Committee on Beneficiary Advocacy & Empowerment**  
**February 1, 2022**

**BAE #22-01**

**Action Item Issue: A Resolution Supporting Community Based Subsistence  
Fishing Area Designations and Rules, Miloli'i, Hawai'i**

**Co-Prepared by:** Shane Akoni Palacat-Nelsen Jan 28, 2022  
Shane Akoni Palacat-Nelsen Date  
'Aho Pueo Kelekele Aupuni, Public Policy Advocate

**Co-Prepared by:** Kama Hopkins Jan 28, 2022  
Kama Hopkins Date  
Ke Kua Kāko'o, Trustee Aide

**Reviewed by:** Na'unanikina'u Kamali'i Jan 28, 2022  
Na'unanikina'u Kamali'i Date  
Ka Pou Kihi Kū, Chief Advocate

**Reviewed by:** Casey Brown Jan 29, 2022  
Casey Brown Date  
Ka Pou Nui, Chief Operating Officer

**Reviewed by:** Sylvia M. Hussey, Ed.D. Jan 29, 2022  
Sylvia M. Hussey, Ed.D. Date  
Ka Pouhana, Chief Executive Officer

**Reviewed by:** Kaleihikina Akaka Jan 29, 2022  
Kaleihikina Akaka Date  
Luna Ho'omalua o ke Kōmike BAE  
Chair, Committee on Beneficiary Advocacy and Empowerment

## Action Item BAE #22-01: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Miloli‘i, Hawai‘i

---

8

### I. Proposed Action

The OHA Board of Trustees approves a resolution supporting community based subsistence fishing area designations and rules at Miloli‘i, Hawai‘i as attached.

### II. Issue

Should the OHA Board of Trustees approve (or not) the attached resolution.

### III. Discussion

To set context for the attached resolution, Administration shares insights from U‘ilani Naipo, a lineal descendant of Miloli‘i working to maintain the family genealogy of Kānaka, ‘Ohana and ‘Āina in the area, taken from the November 2021 Ka Wai Ola article.<sup>1</sup>

In August 2021, the lineal descendants of Miloli‘i and the local nonprofit Kalanihale submitted a marine management plan proposal to the Department of Land and Natural Resources (“DLNR”), Division of Aquatic Resources (DAR). The plan includes proposed rules and boundaries for the Miloli‘i Community-Based Subsistence Fishing Area (“CBSFA”), which was designated in 2005 but currently has no established rules. Since submitting its proposal to DAR, the community at large have been connecting with fishers and ocean users to gather feedback and comments.

The proposed rules and boundaries include a mixture of gear restrictions, bag limits, and seasonal closures developed through consultation with ‘ohana and fishers of Miloli‘i and the surrounding areas. They integrate findings from both traditional and modern marine biological surveys, along with years of kilo – the traditional practice of observation – and are designed to protect 10 fish groups that have been depleted or were identified as vulnerable species important to the subsistence and livelihood of our community.

Known as one of the last traditional fishing villages, Miloli‘i is storied for its ‘ōpelu. It is one of the few Hawaiian fishing communities that still hānai i‘a (feeds fish), ko‘a ‘ōpelu. As detailed in oral histories collected by Kepā and Onaona Maly, hānai ‘ōpelu began by preparing the palu, grating kalo and pala‘ai (squash), in the pre-dawn hours. When communities go to sleep, just as keiki sleep soundly in the next room, ko‘a sleep in the other room – along the coastline. The ko‘a ‘ōpelu, like keiki, need rest. That’s when kapu is placed on them. The community kuleana is to feed them during this rest period. Continuing the traditional practices of ‘ōpelu fishing is the legacy of kūpuna. We honor them in the proposed rules for our traditional ‘ōpelu management zone. From Nāpōhakuloloa to Kapu‘a, we propose seasonal closures for ‘ōpelu from February to August, while still permitting harvest by hook and line. The community also supports the existing state law prohibiting “chop-chop” – meat-based chum – to minimize predators.

---

<sup>1</sup> <https://kawaiola.news/aina/milolii-family-ties-and-traditions-of-care-run-deep-and-wide/>, U‘ilani Naipo, Ka Wai Ola, November 1, 2021, retrieved January 27, 2022

## Action Item BAE #22-01: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Miloli‘i, Hawai‘i

---

8

The rules proposed in the four types of management zones are designed to protect traditional and customary practices while also sustaining healthy conditions in these areas to promote replenishable fish stocks. The Pāku‘iku‘i Rest Area from Makahiki point to Honomalino seeks to preserve pāku‘iku‘i, a favored fish rarely seen today. Kūpuna vividly recall stories of the depletion of pāku‘iku‘i from the nearshore areas. The community also proposes gear restrictions in several pu‘uhonua zones, which were strategically identified based on locations of ko‘a and the convergence of nutrient-rich Kona and Ka‘ū currents, as derived from kūpuna mo‘olelo, traditional knowledge, and recent observations and studies.

The Puaai‘a Miloli‘i zone is the ocean classroom where keiki develop kinship with the kai, learn about traditional practices and pono harvesting, and become like the pua i‘a (baby fish) that are nurtured in these ko‘a.

As the community progresses through preliminary scoping and eventually the Chapter 91 process, the community is being asked to propose precise markers for management zones. The community understands that as one aspect of co-stewardship with the State of Hawai‘i, but ultimately, the community knows the kuleana to mālama ‘āina has no borders.

By implementing the proposed Miloli‘i Marine Management Plan the community seeks to restore fish abundance, promote lawai‘a pono (proper fishing practices) and be a model subsistence-based fishing community. Support for these types of sustainable measures for a healthy ocean, including CBSFA efforts in Kīpahulu, Maui, and Mo‘omomi, Moloka‘i, ensure a better future for keiki and for all of Hawai‘i.

For more info on the Miloli‘i CBSFA marine management plan, draft proposed rules, and management areas, visit [www.kalanihale.com/cbsfa](http://www.kalanihale.com/cbsfa).

While the resolution originated with the Miloli‘i community and the specific CBSFA rules making process, the resolution aligns with OHA’s strategic foundations of ‘ohana, mo‘omeheu, and ‘āina, can be applied across the pae ‘āina and broadly makes policy makers aware of the strength and value of ‘ike kūpuna, preservation of traditional and customary practices and reliance on community-based wisdom.

### IV. Recommendation

The OHA Board of Trustees approve a resolution supporting community-based subsistence fishing area designations and rules at Miloli‘i, Hawai‘i, as attached.

**Action Item BAE #22-01: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Miloli‘i, Hawai‘i**

---

8

**V. Alternative Actions**

- A. To not approve Administration’s recommended resolution; or
- B. To approve an amended version of Administration’s recommended resolution.

**VI. Funding**

No funding is required.

**VII. Timeframe**

Immediate action is recommended.

**VIII. Attachment** - A Resolution of the Office of Hawaiian Affairs, *A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules*

**Action Item BAE #22-01: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Miloli'i, Hawai'i - Attachment**

---

**A Resolution of the Office of Hawaiian Affairs**

*A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules*

**WHEREAS**, 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, artforms, and natural and biological resources<sup>1</sup>; and

**WHEREAS**, the Hawai'i State Legislature, 2004 Legislative Session, by Senate Resolution (SR87) Recognizing Native Hawaiians as Traditional Indigenous Knowledge Holders and Recognizing Their Collective Intellectual Property Rights stated findings that the value of Native Hawaiian traditional knowledge is exhibited in many forms, including through natural resource management principles, such as mālama 'āina and the ahupua'a system; agricultural systems such as lo'i and loko i'a; lā'au lapa'au; and ka ho'okele; and

**WHEREAS**, less than 200 years ago, the eight main Hawaiian Islands and their resources sustained a thriving and substantial Native Hawaiian population close to contemporary population numbers through a resource governance system founded on observational, experiential knowledge and tried and true, centuries-long practices; and

**WHEREAS**, recent research affirms that Native Hawaiians sustainably caught 50% more fish than modern Hawai'i fishers catch and harvested three times the maximum sustainable yield for island nations worldwide today (12 metric tons of fish per square kilometer of reef annually from the years 1400 to 1800)<sup>2</sup>; and

**WHEREAS**, Native Hawaiians traditional and customary practices for sustaining fisheries were based on time tested intimate knowledge of ahupua'a resources which included the fishery, were adaptive and included kapu or lāhui on certain species (flora and fauna), temporary fishery closures, harvest limits on certain species, size, sex characteristics, natural celestial cycles and spawning times; and

**WHEREAS**, the gear our kūpuna used were less prone to abuse, less wasteful and less detrimental to the environment than gear used today; and

**WHEREAS**, Native Hawaiian traditional and customary practices and systems include aspects of community-based management and/or co-management in which the community of resource

---

<sup>1</sup> Paoakalani Declaration, Ka 'Aha Pono '03: Native Hawaiian Intellectual Property Rights Conference, Waikīkī, Hawai'i, Oct. 2003, [Paoakalani Declaration]. See also, UNITED NATIONS (General Assembly)(2007). United Nations Declaration on the Rights of Indigenous Peoples, Article 3.

<sup>2</sup> McClenachan, Loren and Kittinger, John N.. Multicentury trends and the sustainability of coral reef fisheries in Hawai'i and Florida. *Fish and Fisheries*, Vol 14. Pg. 11, Issue 3. March 20, 2012.

## **Action Item BAE #22-01: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Miloli‘i, Hawai‘i - Attachment**

---

users itself takes part and is active and accountable in shaping the relationship with and management of their land and ocean resources; and

**WHEREAS**, Hawai‘i’s near shore fisheries play a key role in household subsistence, the statewide socio-economic fabric and the quest for food security in Hawai‘i; and

**WHEREAS**, beyond the provision of food, subsistence fishing contributes to largely unquantifiable and extremely valuable benefits, including: cultural and environmental ecosystem services; upholding long held community practices, values and virtues such as generosity, sharing, industriousness, self-reliance skills and practices; healthy social status and networks; communal reciprocity; and community and societal insurance, especially for Hawai‘i’s rural communities that serve as kīpuka<sup>3</sup>, or oases of our most cherished cultural legacies<sup>4</sup>; and

**WHEREAS**, current near shore ocean resources and systems have been compromised by overfishing, abuse of highly efficient fishing technologies, insufficient enforcement capacity or legal infrastructure, coastal development, local and global pollution, conflicting ocean uses and purposes, invasive species, continent-focused and/or over-centralized resource management paradigms and climate change; and

**WHEREAS**, current governmental regulatory agencies are often under-funded and under-resourced during a time of rapid human population expansion and exploitation of ocean resources are at its peak; and

**WHEREAS**, top-down, centralized decision making processes -though necessary in some contexts- are often insufficient, ineffective, and too simplistic as a one-size-fits-all management approach to complex and unique place-based ecosystems that would greatly benefit from local and indigenous knowledge and traditional resource management; and

**WHEREAS**, current studies estimate that the people of Hawai‘i are now dependent on outside resources for 85-90% of our food supply with only weeks if not days left should food imports cease; and

**WHEREAS**, Hawai‘i’s communities are concerned, possess much capacity, many resources, knowledgeable individuals and are eager to enlist these assets in collaboration with appropriate government agencies in the effort to mālama our resources; and

**WHEREAS**, our collective values and traditions passed down intergenerationally, by our kūpuna, are renewed, practiced, and perpetuated as essential to our cultural identity, sense of place, and sustainability as ka pae ‘āina o Hawai‘i (Hawaiian archipelago); and

---

<sup>3</sup> *McGregor, Davianna Pōmaika‘i*, Nā Kua‘āina, University of Hawai‘i Press, 2007.

<sup>4</sup> *Blaich-Vaughn, Mehana & Peter Vitousek*, Mahele: Sustaining Communities through Small-Scale Inshore Fishery Catch and Sharing Networks, *Pacific Science* 67(3):329-344. 2013.

**Action Item BAE #22-01: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Miloli‘i, Hawai‘i - Attachment**

---

**WHEREAS**, in 1984 the Miloli‘i-Ho‘ōpūloa Community Development Plan was completed to secure housing and fishing rights and to complete the process of consummating long-term lease agreements with Miloli‘i residents and the State as authorized by Act 62 and reinforced by Act 83; and

**WHEREAS**, since the 1990s, communities at Mo‘omomi (Moloka‘i), Kīpahulu (Maui), Miloli‘i, Ho‘okena, Kalapana (Hawai‘i), Hā‘ena and Hanalei (Kaua‘i) and ‘Ewa, Wai‘anae (O‘ahu) among others gathered and helped establish a movement for nearshore community-fishery governance and management. This inspired the vision for networks such as Kai Kuleana (Hawai‘i Island), Maui Nui Makai Network (Maui Nui), E Alu Pū, Limu Hui (statewide) and organizations like Kua‘āina Ulu ‘Auamo; and

**WHEREAS**, the founding law that set forth Community Based Subsistence Fishing Area (CBSFA), Hawai‘i Revised Statutes (“HRS”) §188-22.6 was passed in 1994<sup>5</sup>, “(F)or the purpose of reaffirming and protecting fishing practices customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture and religion”; and

**WHEREAS**, a two-year pilot project managed by Hawaiian Homesteaders and integrating indigenous ecological knowledge and complementary western scientific approaches to management of Mo‘omomi and Kawa‘aloa Bays on Moloka‘i<sup>6</sup> provided eight communities to establish their own traditional management structure and rules customized to their unique place under the CBSFA process for which they are awaiting State approval; and

**WHEREAS**, the founding CBSFA law, which provided for the designation of a CBSFA, inspired the enactment of other laws, HRS §188.22.7, specifically designating a CBSFA in Miloli‘i (2005; Hawai‘i Island) and HRS §188.22.9, designating a CBSFA in Hā‘ena (2006; Kaua‘i Island) and the current interest and active pursuit of CBSFA designation by many other communities including Ho‘okena, Kīholo and Kalapana (Hawai‘i Island), all of Moloka‘i and Lāna‘i, Kīpahulu, Mū‘olea, Polanui and Wailuku (Maui) and Kahana (O‘ahu), and Ni‘ihau; and

**WHEREAS**, the Hui Maka‘āinana o Makana (Hā‘ena, Halele‘a, Kaua‘i) with the support and participation of the larger communities in their moku and the statewide network efforts cited herein passed their CBSFA rules in 2015, have actively managed their area in partnership with the state, have seen an increase in fish populations and are now going through their five year review; and

---

<sup>5</sup> HRS 188-22.6 was driven by the Governor’s Moloka‘i Subsistence Task Force recommendations to allow Ho‘olehua Homesteaders to manage shoreline marine resources for subsistence fishing.

<sup>6</sup> *Poepoe, Kelson K., Bartram, Paul K. & Friedlander, Alan M.* 2001. The use of traditional Hawaiian knowledge in the contemporary management of marine resources. Putting Fishers Knowledge to Work Conference Proceedings, 328-339. *Friedlander Alan M., Poepoe, Kelson “Mac”, Helm, Kanohowailuku, Bartam, Paul B., Maragos, James, and Abbot Isabella*, 2000. Application of Hawaiian traditions to community-based fishery management. Proceedings 9<sup>th</sup> International Coral Reef Symposium, Bali Indonesia 23-27 October 2000, Vol. 2.

**Action Item BAE #22-01: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Miloli‘i, Hawai‘i - Attachment**

---

**WHEREAS**, in 2005 the Miloli‘i fisheries management area was designated as a community-based subsistence fishing area, as provided in HRS §188-22.76 to:

- (1) Ensure long-term sustainable populations of fish and other marine species; and Encourage the scientific study and understanding of subsistence fishing management. [L 2005, c 232, section 2] (Hawai‘i Revised Statutes §188-22.7)
- (2) Encourage the scientific study and understanding of subsistence fishing management. [L 2005, c 232, section 2]” (Hawai‘i Revised Statutes §188-22.7); and

**WHEREAS**, since 2005 Pa‘a Pono Miloli‘i now Kalanihale with the support and participation of the larger communities in the māhele ‘āina o Kapalilua has and continues to work diligently with stakeholders and the broader community since 2005, and draft rules from the ahupua‘a of Kīpāhoehoe to Manukā, through survey, scientific research and consultations with over thousands of small and large community members, individuals, commercial interests and government agencies; and

**WHEREAS**, Hui Mālama o Mo‘omomi (Mo‘omomi, Pālā‘au, Moloka‘i) has been pursuing a designation and rule package for over 20 years and continues efforts to develop subsistence rules for the community fishery there; and

**WHEREAS**, scientific surveys of various locations around Hawai‘i show that locations under community-based management with customary stewardship harbor fish biomass that is equal to or greater than that in no-take marine protected areas<sup>7</sup>; and

**WHEREAS**, the State of Hawai‘i has recognized that we are inextricably linked with the ocean, which is central to our livelihoods, culture, health, and island lifestyle; and

**WHEREAS**, the State of Hawai‘i has also recognized that our marine environment is under pressure from a growing population, habitat destruction, unsustainable harvest, the loss of traditional practices, and warming and rising seas; and

**WHEREAS**, on September 1, 2016, at the International Union for Conservation of Nature World Conservation Congress in Hawai‘i, and as part of the sustainable Hawai‘i Initiative, Governor David Ige announced the State’s commitment to effectively manage thirty percent of Hawai‘i’s nearshore waters by 2030; and

**WHEREAS**, the Marine 30x30 Initiative focuses on developing and strengthening the essential components of effective management; and

---

<sup>7</sup> *Higuchi, Jodi*. 2008. Propagating cultural kīpuka: The obstacles and opportunities of establishing A community-based subsistence fishing area. *University of Hawai‘i Law Review*, 31-193; 1-30.



**Action Item BAE #22-01: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Miloli'i, Hawai'i - Attachment**

---

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Trustees of the Office of Hawaiian Affairs that we call upon governmental policy makers for continued progress towards streamlining and making the process more user-friendly for enlisting communities to carry out the work of sustainable community based subsistence fisheries by integrating place based and Native Hawaiian traditional and customary practices and values with the best practices and methods developed by contemporary science through the creation of community based subsistence fishing areas and rules and approaches that will benefit present and future generations; and

**BE IT FURTHER RESOLVED**, that we call upon policymakers to promote policies and strengthen institutional frameworks that develop cooperation and coordination, in a spirit of partnership among government at all levels with local populations and community groups; and that when there is flexibility in interpreting statutes in favor of community based subsistence resource management, to interpret it as such; and

**BE IT FURTHER RESOLVED**, that state resource policy should be consistent with the State's public trust duties and the precautionary principle; that communities applying traditional ecological knowledge and management approaches not be unduly burdened with proving with scientific certainty in accordance with western methodologies of proof; rather that indigenous, traditional knowledge be respected on its own merit and acknowledged for its centuries proven effectiveness in restoring and maintaining natural resource sustainability, health, and abundance; and

**BE IT FURTHER RESOLVED**, that a copy of this resolution be transmitted to: the Governor of the State of Hawai'i, President of the Hawai'i State Senate, Speaker of the Hawai'i State House of Representatives, the Hawai'i State Senate Committees on Water and Land, and Hawaiian Affairs, the Hawai'i State House Committees on Water and Land, and Judiciary and Hawaiian Affairs, All County Mayors and County Councils, the State of Hawai'i Board of Land and Natural Resources, the National Oceanic Atmospheric Administration, Department of Interior Office of Native Hawaiian Relations, and the Association of Hawaiian Civic Clubs and any other entity which may be interested in or supportive of efforts to develop CBFSAs.