

APPENDIX C  
PUBLIC SCOPING MEETING TRANSCRIPTS

## Oahu Public Meeting

TRANSCRIPT OF  
SPINNER DOLPHIN/HUMAN INTERACTION EIS  
PUBLIC  
SCOPING MEETING

Held in Honolulu, Hawaii

McCoy Pavilion

1201 Ala Moana Boulevard

On

Tuesday, October 17, 2006

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MS. COLBURN: Thank you for allowing us to

reconvene in a timely manner.

My rudimentary calculations would suggest that we have at least 17 people interested in speaking. When we figure out how long it will take us to break the room down and get out of here by the time for comments, so four minutes is probably the max that we can allow for each speaker.

I have some very annoying cards at my disposal at the podium there that say, three minutes, two minutes, one minute, pau and then repau. So with your cooperation, we can get through this evening.

So I've asked people to come up so that they can be ready to come up to the podium when it's time for them. Tammy is first. Kiwina will be second and SDK Nalua'i is third.

Kelly Krohne, you're next after that.

Charles Harvey and Katya Boehle will be after them. So when these chairs vacate, make your way forward in that order and we can speed things up a bit.

So without further ado, your testimony, please. Four-minute limits.

If you wish to submit written testimony as well, we'll be happy to do that.

Our first testifier is Tammy Rach.

MS. RACH: Aloha. My name is Tammy Rach

and I'm the Education Supervisor for Dolphin Quest Oahu. I've been in this field for about thirteen years, the past two which I've been privileged to spend working for Dolphin Quest Oahu and enjoying this island's beautiful natural resources.

Dolphin Quest is founded by two world-renowned marine mammal veterinarians, Dr. Jay Sweeney and Dr. Rae Stone, both dedicated to cetacean conservation, education and research.

Dolphin Quest has contributed over two million dollars for its research on wild cetaceans alone, much of which is done through funding the longest-running wild dolphin population research study in the world.

Global stewardship is another strong initiative close to the heart of this company, funding staff members to participate in local conservation efforts throughout our island community.

Education is another cornerstone for us, as we conduct educational programs for Hawaiians and tourists every day, as well as offset outreach and community programs in schools and communities across the islands.

We're a respected member of the Alliance of Marine Mammal Parks and Aquariums and pride ourselves on setting and exceeding the

organization's high standards. We lead by an example of excellence throughout our programs and respect for all of the ocean's creatures.

Our position on this issue is in the best interest of all wild marine mammals. We urge you to prohibit public contact of any kind for all species of wild marine mammals. Existing laws must be clarified and enforced for the safety of cetaceans and humans. A huge chasm exists between observing these magnificent creatures and interacting with them.

Studies have shown that in the wild human interaction of any kind leads to a decrease in resting behavior, vocalizations and habitat use, as well as a significant decrease in reproductive success.

Anyone who understands the intricate feeding strategy of spinner dolphins, in particular, is aware of the extreme challenge they face within each 24-hour period to balance the energy expended on hunting with restoring that energy through a high caloric intake, as well as ensuring the need for rest needed to do it all again in the next 24-hour period.

Interactive tourist traffic interrupts this intricate balance, in particular at their rest sites, and also can disrupt necessary social

interactions.

The commercial industry of wild spinner dolphins swim programs has boomed here on Oahu with little or no regulation. We fear that soon many wild dolphins will habituate to humans, which has proven to be -- to have lethal consequences for both parties.

National Marine Fisheries Service has in place now a rule that prohibits feeding of all marine mammals, and this is definitely in the best interest of the animals.

If swim-with-wild-spinner-dolphin programs are not mandated to cease, then at the very least enforce a 100-yard rule. What we would ideally like to see is a shift in wild spinner dolphin programs to land-based observations and to clarify and enforce laws prohibiting interaction of humans and wild cetaceans unless legally permitted to do so.

Every day we strive for what is in the best interest of animals, and we ask you to consider this course of action.

Mahalo nui loa for allowing us this opportunity to speak on behalf of wild spinner dolphins and whales and other marine mammals whose life and survival may be compromised by unregulated human activities. Thank you. (Applause)

MR. SOTO-AMUNDSON: Four minutes. There's

no way, there's no way I can put eight years of -- aloha. My name is Kiwina, aka Steve Soto-Amundson. I'm going to move this real quick.

I reside on the Big Island near the communities of Napoopoo, Kealahakua Bay, Honaunau and Hookena.

I have a whole list to read. I'm going to go through a lot of it real quick, but I'm probably going to skip around and get to the meat of it, which is at the end of it.

There's no way in this amount of time I can share with all of you what I've learned, experienced or witnessed in over 3,000 hours of my life given to the Hawaiian spinner dolphins in the last eight years. I know there's more hours than this, as the figure doesn't include the research I needed to learn and dig in from such experts on the subject as Ken Norris, Bernard Wursig, Jan Ostman-Lind, John Lilly, Jane Goodall and Diane Fossi.

Included with this group of individuals, there are a number of Hawaiian kumus and friends who have shared their cultural experiences and opinions regarding this sensitive marine mammal.

Nor does this time allow me to begin to describe the amount of time and money I've used in spending eight years of engaging with, writing about, traveling to, monitoring and recording,



photographing, videotaping, and -- to the best of my ability -- protecting the Hawaiian spinner dolphin.

My comments and opinions here tonight are directly related to only the Hawaiian spinner dolphin, as both myself and a group of global individuals I represent through Malama I Na Nai'a have committed to protecting and preserving the spinner dolphin environment and their wildlife right to life shared within the Hawaiians Islands.

This being said as a consequence amongst all supporters of our group worldwide that the following is stated:

We are grateful to the Federal Government to hold these hearings for more public comment and begin an EIS process, and I say this to Mark, Jayne and Alecia with friendship.

We strongly and firmly believe that even this step in the rule-making changing process has taken too long and is too late. We have collected the data on a number of illegal individuals and companies that are both advertising and marketing spinner dolphin swims, estimated and calculated that revenue generated by this activity and presumed lost by the State of Hawaii through nonreporting and unpaid taxes.

I have the photos and videos that clearly detect the activity of swimming with, after and on

top of spinner dolphin pods, have made reports to the 1-800 line to agencies and individuals on the federal, state and even county levels.

And most importantly, but worst of all, have documented and witnessed the dramatic decline in the overall numbers of spinner dolphins seeking and using protected bays for their ecological needs over the past six to eight years.

We ask you not to invalidate our efforts, which you can question our efforts in videotaping dolphin swims in boats that leap-frog traveling pods up and down the coastline when they can't find spinners in protected bays for their paid swimming clientele or the dolphin chase activity sign that decorated Front Street in Lahaina for over four years with a number of educational CDs we produced and have given away to tourists and others around the world.

The list goes on and on as we've experienced and reported conditions related to Hawaiian spinner dolphins and eco-terrorism companies on the Big Island, Leeward Oahu, LePerouse and Honolua on Maui and Secrets on Kauai.

I'm the individual who got off of Hawaiian Airlines Flight 25 from Portland two Julys ago and reported a paid video advertisement for dolphin swims by an Oahu company that had not been given any

clearance or permission from the Feds nor Peter Young of DLNR. Yet, Hawaiian Islands got the ad -- Hawaiian Airlines got the ad.

I presume this advertisement was pulled.

You can just know we are also responsible for monitoring many of the newspapers and magazines throughout the Hawaiian Islands for advertisements that sell commercial dolphin swims.

As a group and speaking for myself, we are frustrated, somewhat angry and disappointed and confused as to why, without question, we have to follow the click-or-ticket law, pay the fine. But when it comes to a federal law created by congressional lawmakers in 1972 and re-amended in 1994 that calls for the protection of this and all marine -- I'm done, that's my four minutes.

If you'd like to get more, I'm not submitting it as testimony, because I really, really, really need to say this one last piece, we don't have another five years for the EIS. We don't even have until '08 for an EIS. At the rate of decline, the number of keikis that are dying due to lack of rest, inadequate ability to protect themselves at night when they're foraging, we have the video evidence, we have the photo logging, we have the keikis that disappear and no longer are numerically making up the pods and living long

enough to reproduce.

We have the funds. We're prepared to litigate in federal court. Mahalo. (Applause)

MS. COLBURN: Can we also have Kelly Krohne, Charles Harvey and Katya Boehle come take seats here.

MR. NALUA'I: Aloha. I'm (inaudible) Nalua'i. I'm a retired physician and family business man. My ohana are commercial boat operators out at Kewalo Boat Harbor, as well as Koolina Boat Harbor.

I speak strongly in favor of the Environmental Impact Statement and its resulting code of conduct for dolphin viewing, i.e., staying either 50 or 100 yards from the dolphins, limiting observing to 30 minutes, not encircling or trapping dolphins, which I see constantly all of the time.

If dolphins approach the boat, switch to neutral and let them pass, do not attempt to swim with dolphins and leave the water if the dolphins approach you while swimming.

Being in the boat industry, it's common knowledge that commercial dolphin drop boat operators, those that go out and drop people on top of the dolphins, are well known for their rate of collaboration to locate and chase down the dolphin pods and collectively herd and corral these pods in

order to drop their tourists, mostly from Japan, into the water.

These operators further harass the pods by driving tourists by aft lines over the pod or dangling the tourists over the side of their Zodiacs in order to get a view of the pods.

One of my boat associates went on one of these trips and even witnessed a Zodiac driving over a swimming pod to get in front of it in order to drop the tourists off and, more horrifyingly, she witnessed a fresh cut on one of the dorsal fins of one of the young dolphins, obviously from the propeller of the Zodiac, and always these activities done in the name of the bottom line, personal business profit.

Thus, my family and I strongly support this effort to regulate. But not just to regulate, but to have enforced regulations so that things can be done when people violate the rules. Mahalo.  
(Applause)

MS. COLBURN: Kelly Krohne. Witness Protection Program.

Charles Harvey. Going once. Charles Harvey going twice. No Charles.

We have Katya. So the next speaker registered to testify is Sam Pae. Followed by Cynthia Rezentes and Jo Jordan.

MR. PAE: What's up, everybody. My name is Sam Pae. I live on the west side of the island, yeah.

I teach a personal water craft or a thrill craft course out at Windward Community College. We talk about endangered species. As part of the laws that came out under State ruling, that every thrill craft operator in the State of Hawaii needs to take this course.

I also do tow-in classes to teach the courses. Basically, we teach principles and practices and where you can and cannot operate your thrill craft in the State of Hawaii, and doing your tow-in surfing, and stuff like that.

I've got a concern about the time closures on your EIS. Down on the west side in some areas, down by Makua, when the waves get big, they no stay. So does that impact us guys to having our activity to do tow-in surfing? That's one thing, you guys -- you know, if you can look at.

I fully support no interaction with dolphins. I live out at Maile Point -- well, my mom lives at Maile Point. I surf Maile Point, and I do see the interactions every time we go out there surfing.

The Endangered Species Act is pretty blunt. You cannot come 100 yards from any whales,

or anything. Maybe let's give the dolphins the same support, too.

Stuff like that.

Like I said, I really support no interaction. Let them be -- keep the tourists on the boat instead of in the water, because a lot of them like to -- you know, even though you tell them, cannot get too close to them, some of them will veer and some of the dolphins do come up. So, you know, you're interacting with them.

Like I said, the time closures is what I'm kind of really concerned about, yeah. Especially when the waves are big and the water get all stirred up, the dolphins don't come around there anyway. So if you can take some consideration into that.

And then try to keep me in the loop.

Thank you very much. Everybody, aloha. (Applause)

MS. COLBURN: Cynthia Rezentes. Perfect. Thank you.

To be followed by Jo Jordan and Lucy Gay.

MS. REZENTES: Good evening. I also am from the west side, and I'd like to relate a little bit of a story for you to demonstrate some of the support that I think you're going to see from most - a lot of people on the west side for restrictions placed on interactions with spinner dolphins.

At one point of time along the west side,

particularly at Makua Beach, we had a kayak operator actually launching from shore, taking kayaks out in strings and then actually going out and interacting within the pods of spinner dolphins.

What we found out through experience and after a moratorium on that was that we're seeing impacts not just on the spinner dolphins, but on other situations in the bay, whether our fishing schools come in and spawn, the effects of that. The fishermen being able to do their livelihood out there.

So the Waianae Coast, did go ahead and we worked with the legislature over the last two sessions. We are not an Ocean Recreation Management Area that's been designated by the State yet. There is a push to put in recreational management area rules in the area.

But what happened in 2005 was that with the support not only of our elected officials, but the elected officials throughout the state who's recognizing the pressures of our visitor industry on our ocean resources, and this one being one of the ones that we raised as the prime example, there was a moratorium placed on additional permits for boats coming out of DLNR small-boat harbors to do these types of tours, even though their permits are not set up for dolphin tours, they're set up for



commercial activity, you still know what they're doing.

I am pleased to say that for the Waianae Coast, we are already under legislative law to go ahead and have an environmental baseline study done to see what our entire resources are, our carrying capacities are and what interactions may or may not be allowed depending upon the coastline and what is there.

So for Makua, it's definitely the interaction with the spinner dolphins, the same thing -- we haven't mentioned Kahe Point and the power plant area. That is also another major spinner dolphin resting area along the Waianae Coast. So right now the Department of Land and Natural Resources has issued for offers to come in and do this environmental baseline study.

So what I would also like to ask from NOAA is that somehow or another we work together, because the State has recognized -- our elected officials have recognized that there are impacts that are going on out there that we don't understand at this point in time, but we need to understand, not just for the safety and the saving of our natural resources, but to try to figure out a way so that we could potentially be able to accommodate both our local culture, our local livelihoods and, hopefully,

the visitor industry.

So that's a long way of saying that, personally, I would like to see people further away from spinner dolphins. But I want to be encouraging and say the State, itself, right now also recognizes we have a problem and we need to address it. So I think you'll find that there's a lot of support for regulations on how we interact. So Thank you very much. (Applause)

MS. COLBURN: Jo Jordan. Then Lucy Gay. Then Carl Jellings.

Can you repeat your names into the mike, please.

MS. JORDAN: Aloha. My name is Jo Jordan.

I do reside on the west side of Oahu.

We've spent probably two years, as the previous speaker spoke in regarding the issue in Makua with dolphin kayak tours.

I do not favor swimming with dolphins, interacting with dolphins or mammals. That's their playground, not ours to enjoy it with them.

We did see through a test run for a year with that activity that there were some changes. We did see that there were changes to natural fishing activities that had gone on in that area, and started interrupting traditional fishing activities in that area. So it's not only dolphins that we're

talking here, but it also started to affect livelihoods of commercial fishermen in that area.

It also changed where those dolphin pods went on our coastline.

We, as a state, need to remember, are we here for what was before or what we want to bring here with the tourist industry?

As one of the previous speakers spoke, he talked about revenues that haven't been given to the state from these activities, such as non-profit entities or illegal activities that go on generating millions and millions of dollars of revenues. Our state loses those funds also.

That was one of my biggest concerns with DLNR when we were having discussions on this kayaking permitting.

We need to remember, their home, not our home.

I do support no swimming with dolphins.

I may support watching from boats 150 feet away, preferably on land. But we can't get what everybody wants, so -- no, I don't support and I'm grateful that we're going to do this EIS. As the gentleman said before, it's a long time coming, but everything is a long time coming. Thank you.

(Applause)

MS. GAY: Aloha. My name is Lucy Gay.

I work in Waianae. I'm part of the University of Hawaii, Leeward Community College at our satellite campus.

I have just two things I want to talk about. On the photo identification discussion that Dr. Johnston supported in his presentation, my concern is who will do that identification. Because I think what I'm skeptical about is that it may be - - it could become a disguise for the status quo, depending on who is permitted to do the identification.

The other issue is the 50 yard, 100 yard distance from the pods.

From where I observe the pods out at Makua Bay, it really doesn't make any difference whether it's 10 yards, 50 yards, 100 yards, 125, 150. It really doesn't matter when you're from shore looking on, because of the perspective.

You really can't tell how close they are.

So while we may have an idea about what kind of watchers that were self-imposed by our local state government to introduce a program like that, to involve residents as part of their neighborhood watch kind of idea, it becomes very difficult to really establish a fact that from a distance of several yards, that what you're observing is an intrusion into that distance.

So I don't know how you address that, but I'm concerned about just the idea of distance and enforcing it. (Applause)

MS. COLBURN: Carl Jellings. Next will be Jessica Aschettino. Followed by William Aila.

MR. JELLINGS: Aloha. My name is Carl Jellings. I was born and raised in Waianae.

The first dolphin tours that started coming off of Waianae I think was in '95 or '96. They started with one boat.

I think in '97 we had three boats.

In 2000, we had five boats.

In 2006, we have twelve boats.

By the end of next year, we'll have two more boats coming out of Koolina.

I would suggest that you folks put some kind of a moratorium before these people -- you know, every time one of these vessels start, every time one of these vessels start, you're looking at - - you're looking from 200 to 300 visits a year.

Every time an additional vessel starts this kind of operation, you're going to have two to three hundred more visits on these existing pods every year. So you've got twelve boats already, existing boats, which about eight is active. They're doing one or two, sometimes three trips a day. You know, it's putting a lot of -- this is the

thing that is putting a lot of stress on the animals.

So if the Federal Government could put a statewide moratorium, like they have for the state facilities, they have a moratorium, an existing moratorium right now for these kind of activities, the Federal Government -- because 2008 is too late.

In 2008, you're going to have -- who knows -- a dozen more businesses -- two dozen more businesses starting up, you know.

So that was my comment. Thank you.

(Applause)

(Comment out of reach of microphone)

MS. COLBURN: William Aila. Followed by Reg White and Victoria Collins.

MR. AILA: Sorry for the loud noise.

Not only shall I give my name, William Aila, Junior, but also I have to give a disclaimer. I'm a State employee. I work with the Department of Land and Natural Resources. However, the comments that I give tonight are those of my own, particularly because I want to criticize my bosses.

They've done very little to limit the amount of impact on the dolphins, as well as some other resources offshore.

I've gone on record for the last probably six or seven years asking the Department of Land and

Natural Resources to -- just as Carl said -- create a moratorium. Take a time out until we can see what the impacts are.

Unfortunately, they blame it on you guys. They blame it on the feds and say, we can't do it because of the Marine Mammal Protection Act.

I said, bullshit, they could have done it.

This is who I am. This is -- I come from Waianae. This is how we talk, especially when we're serious.

Bullshit, they could have done something. They still can do something.

In fact, they could have -- and I would make this a recommendation, that you make a recommendation to the state to pass the legislation to be able to issue permits for vessels coming out of private facilities. Not only do we have Koolina to worry about, but with a 14,000 slip marina at Haseko that's going to open within a year, and everybody that lives in Waianae that's in the ocean in Waianae knows that these boats aren't going to go to Waikiki. We know they're going to come down to Waianae.

Why are they going to come down to Waianae? Because of the snorkeling. Because of the dolphins. Because of the whales. So they're coming our way.

So if you could make a strong recommendation -- I know in order for you folks to do it, you would have to first pass a regulation that says that you have a need for federal permits, and in fact that should be something that's considered within this discussion, whether or not there's a need for federal permits, and conditions in those permits.

With regards to the partial time/area closures, I have some concerns as a fisherman, how it's going to impact some of the nearshore fishermen. For example, if it's a closed area to dolphin viewing, but the akule is still in the area, it's hard to be able to go and make a living with no schools.

During the period of high surf, the dolphins aren't going to be in there because they're looking for clean water. Let the tow-in surfers go in there.

Trolling. Because many times these spinner dolphins will mix with the kikos (phonetic), the spotted dolphins, especially early in the morning. That's the favorite time for trollers to go through these schools and get hooked up to large ahi. So how is that going to impact the trollers?

Same thing for the guys in Kona, the drop stone guys. They want to get in front of the



porpoise schools so they can drop their opelu down because what's traveling with the opelu -- I mean, excuse me, with the dolphins, with the ahi underneath.

Because they're working together. You talk about collaborative partnership in feeding, not only do dolphins interact among themselves, but they do it in conjunction with other species, mainly yellowfin tuna. So what are the impacts on those fishing styles?

What are the impacts going to be on the vessels transiting to view dolphins when they're transitioning between these sleep areas and their feeding areas?

So I have some questions on that, we have to take a look at that.

Finally, anybody that's in here that's in favor of swimming with dolphins, I've got to remind you it's dangerous to swim with dolphins. Because what feeds on dolphins? Sharks.

The dolphins run away. Guess what? You're left in the water. Okay.

So tell all of your friends and family when you make a choice to enter into the water, you just signed a contract to become part of the food chain. Don't swim with dolphins. Thank you.

(Applause)

MS. COLBURN: So Reg White, Victoria Cullins.

MR. WHITE: Good evening. My name is Reg White.

I run a company that will be 50 years old next March called Paradise Cruise.

We try to engage in educational and responsible whale and dolphin watch cruises as a part of our operations. It's a small business portion of our operations.

I have to tell you that this industry is not full of responsible people. There is a rather large percentage of relatively irresponsible operators in the industry, which are embarrassing to us.

Also, they cause trouble to those of us who try to be responsible. Let's face facts. They try to build a market that no one could deliver on except someone who wasn't responsible.

But the reason they're there and able to do this, and mess up the whole deal for everybody else, is because right now we can't enforce the guidelines. So the guidelines basically have to become rules or laws first.

Then we have to vigorously enforce them.

Then we have to see if that solves the problem.

Now, the state's people, who wrote the guidelines, they're pretty smart and they're very dedicated researchers. So I have a feeling they must have had a reason for picking the 50 yards. I don't know what studies were made. I can't tell you how valid they were. But I know those people, and they must have had a reason for picking 50 yards.

If we enact that as a law, and include not feeding with the don'ts -- not feeding is not listed in their list of don'ts, add that in there, and enact that as a law, and then give it a time and monitor it very closely and enforce the heck out of it, and see what happens. Because I think very possibly our problem will go away.

If you have to carry it another step and decide to do hours of closures, please remember the original small businesses, the tiny fishing operations, that will be excluded from going to their market area where they catch their fish. That's a problem.

Also, most of the dolphin watch businesses are small businesses, and the ones that are responsible are going to get killed along with any closure that you put in, as well as the bad guys.

So I do believe that if you can take Option 1, add don't feed to the list of don'ts, make it a law and then enforce it rigorously, and we'll

call. We know what we're defending. We're defending our jobs. So we'll call and report people that don't go along with it.

We'll ask them first to straighten up. But if they don't, you'll hear from us.

But right now it doesn't do any good because there's nothing to be done about it.

I think that's probably about all I'm going to say this evening. Thank you very much (Applause).

MS. CULLINS: Hi, I'm Tori Cullins. I'm with the Wild Dolphin Foundation. I'm also a tour operator on the Waianae Coast.

A few issues. We're -- I agree with what that previous speaker was saying about there are some irresponsible operators out there. I would consider us a responsible -- (loud electronic interference). Even being a responsible operator, we're at times irresponsible because there's times we just can't help -- you know, as hard as they're trying to be pono out there, it doesn't always happen, even from the ones who believe they're being responsible.

I would strongly suggest that the NOAA -- the regulations that come through, that they be enforceable, and that's really important. Like Lucy Gay was saying, that if you can't tell whether it's

50 or 100 yards, how can it be enforced with the Makai Watch, or anything else.

There are range-finders. We do actually - - ourselves, we do have a range-finder that would tell you what that yardage is, but we have it. How accessible is that for everybody to have that.

We have been doing research off the boats since we began. We began as researchers from the University of Hawaii. Then when we got a boat, we do opportunistically research off of that. We've had volunteers and interns with us out there.

We do have a really large photo -- large catalogue of photo I.D. that were -- and we talked to Maria, Maria and Dave Johnston. I would be more than happy to work with them. So I don't know how many more photo I.D. do we need, but we have a really large database.

We've also worked with Robin Baird, and we have his spinner dolphins from around the island.

Chuck Harvey in the back, he's got a lot of pictures, also. So I think just within our own community we have a big pool of identification.

What I would really like to see with that is the 1995 study that Dave referenced earlier. It was just published in 2005, but it was done in Makua Bay in 1995. During that time in July and August, they saw dolphins at that bay 52 out of 53 days. As

other community members can say, they remember back in hunabuna days, there were always dolphins down at Makua.

In our latest shore-based studies in July, we saw dolphins six days out of the whole month.

Of the dolphins that came out, the pod size earlier was normally 60 to 70 dolphins or more. What we say in July was pods of about 35 dolphins.

While they were in the bay in '95, they were there for about an hour and a half. And that was just swimmers.

We actually have a petition from our website that we've encouraged people to sign. We have about 2500 signatures right now that are asking to permit the boats and -- wilddolphin.org is the website. You can go and look at the petition.

I just lost my train of thought.

MS. COLBURN: Is the petition on the website?

MS. CULLINS: There's a petition on the website -- oh.

So anyhow, at Makua Bay, what we would like to see with those photo I.D.s done personally is, where do those dolphins go? Do they just go down south? Are we seeing -- there's pretty many dolphins that we're seeing down in front of Kahe.

But do some of them go down there? Or do

they go around the corner? Have they just left?  
Have they vacated our coastline totally, that pod?  
Are these connected to Kaena Point? Or they  
somewhere else?

Because we're not seeing the dolphins that  
we saw a while back. We had dolphins that we knew,  
the dolphins, their markings, where they became  
entangled in nets or maybe prop cuts, as Kiwina was  
saying. Yeah, but there's whole pods of dorsal fins  
missing.

We're seeing some new ones, but we're not  
seeing those ones that we saw -- there's one  
identified back in 1978, that he was consistently  
seen on the coastline. We still see him once in a  
while, but it's kind of odd that -- he was like a  
daily occurrence that we saw all of the time.

Then around 2000, we started seeing these  
problems. We went to the legislature and asked for  
the moratorium. Because at the time that we saw  
him, maybe once a year. So where did he go? What  
happened to him? So we'd really like to see the  
photo I.D.s and what happened to the individuals  
that we were used to seeing and where did they go.

We also have -- really concerned about the  
time and area closures. Not in and of themselves,  
but we'd like to see them -- it's a touchy thing,  
but -- it seems to me it could only be for

commercial activity. We'd like to see them for dolphin focused tours. I don't really see how with native gathering rights and public access how they can be closed otherwise. Or why they would need to be.

But for the commercial activities, I think that's probably the only way. And that would be also very easily enforceable.

And maybe -- well, I could go on with -- we'll have a longer statement on how we think that should be done separate. Thank you. (Applause)

MR. TONG: Okay. My name is Amos Tong. I used to be -- I worked on one of the cruise ships that used to be a dolphin watch out in Waianae.

Basically, what I want to say is something that's been said a million times before me.

But I think as far as the research part, I think there's degrees in which we affect the dolphins. I mean, there's watching from 100 or 50 meters out, which is nice. You know, you can see the dolphins off in the distance.

And there's running over the dolphins and dropping your customers in the dolphins. It's kind of like that analogy -- like I live right next to H1. After two years, I finally got used to the cars driving by at night.

But just two weeks ago some drunk -- my



drunk neighbor came over and tried to break into my house, and I couldn't sleep at all for the rest of the night. You know, it's kind of like that, when you have a whole bunch of people run over dolphins and throw people right on top.

Also, the guidelines. They're just guidelines. It can be said that, you know, you accidentally ran over the dolphins and you accidentally dropped your customers right in on top of them, it's so easy to go around the law that it doesn't even become a law anymore.

So I would like to see that changed, because it's not doing any good.

How many times do I have to see the people get dropped off and the dolphins run away. You load the people back onto the boat, and run toward the dolphins again. Throw them back in the water. The dolphins run away, and that's supposed to be the time that they rest, you know.

It would be nice just to be able to see them off in the distance. Some of them are awake. Sometimes they jump. It's really nice to see that.

But when you have to harass them, I think that's where you need to draw the line.

And the way things are right now, I think there should be a way where you have enough research to go to the board where you can have a law made

that quickly. Then after that, get rid of the really, really bad stuff first. Then after that, try to fix the -- fine-tune the gray area. There is a lot of gray area and there's a lot of -- that's all I want to say. Thank you. (Applause)

MS. COLBURN: Because there were a few teases in the audience and because mostly everybody honored the time line, we're ending just about the time we expected to.

We'd like to remind you that the scoping meetings that will follow are in Kapaa on the 19th, Kihei on the 25th, Kailua-Kona on the 26th, and that you can continue to submit written testimony tonight and until the 24th. Is that correct?

For some closing comments and to thank you for your comments and thank you for your attendance this evening, again, our colleague, Chris.

MR. YATES: Just in closing, I want to thank everybody for taking the time to come out. I hope that we were able to provide some information to you that was helpful. You guys definitely provided a lot of information to us that was helpful.

I really hope that you can appreciate that we're very sincere about trying to find the best possible solution to this problem. We really are serious about wanting your help and looking forward

to getting more information from you. A lot of things that were mentioned tonight (inaudible, speaking out of range of microphone).

Thanks very much for taking your time to (inaudible). (Applause)

(Meeting adjourned)

## Kauai Public Meeting

TRANSCRIPT OF  
SPINNER DOLPHIN/HUMAN INTERACTION EIS  
PUBLIC  
SCOPING MEETING

Held in Kapaa, Kauai

Aloha Beach Resort

On

Thursday, October 19, 2006

(Thursday, October 19, 2006)

MS. COLBURN:... at editorial

embellishments. Remember that we're not here tonight to get agreement. We're really here to get informed about all of the different points of view that are present in the room. So it's perfectly okay to disagree.

We're going to give each speaker about six minutes this evening, based on the number who wish to testify in the time that we have.

I'm going to be keeping time with a stopwatch and rather than poke you on the side, or something, and ruin your concentration, you'll see you have three minutes left, you have two minutes left, you have one minute left, pau, pau pau. Okay.

So seriously pau.

It would really help if you keep your comments targeted to the subject at hand. We're interested in (inaudible.) but really, if you could focus on spinner dolphins and the Draft Environmental Impact Statement process, that would be useful.

If you have particular suggestions on management alternatives or issues of that ilk, the more specific you could be the better.

So I think with that, let me invite the first person up to give testimony. That would be Mel Wills.

MR. WILLIS: And I'm going to pass on to --

Chris Bane is --

MS. COLBURN: Well, who do you think you are? I mean, what do you think -- okay.

Certainly, if the gentleman from South Carolina will yield the floor, we could -- and if you could give your name before you begin your testimony.

MR. BANE: Some of you guys know me already. For those of you that don't, my name is Chris Bane. I work for one of the boat companies. I've been working on Kauai for about 18 years now doing boat tours out of Napali. I've been doing tours around Kauai. I've got about 4,000 trips to Napali already. I've worked with different doctors -- excuse me, marine biologists here on Kauai.

I've been able to write two papers -- or cowrite two papers on different subjects on porpoise here in Hawaii as well Kaula Rock.

I had some concerns -- I know some of my concerns were actually answered. But basically, there's some things that I think we should look at.

I agree that swimming with wild dolphins is a bad idea. It's a bad idea for a lot of different reasons. Mainly, it does harass them. Basically, you need to do a lot of harassment to get them to hang out with you. They don't naturally swim up to you, as we know that.

I also agree that we can pass them diseases. They can also hurt us. You know, they are wild animals. I think that's something that a lot of people don't realize when they're swimming -- excuse me, swimming with wild dolphins.

So, basically, I agree with that. I think there's other issues that need to be covered.

I'm sure there are some bays that are specific individual bays that do need protection, maybe Kealahou Bay, things like that, certain areas of that bay.

I also think that we need to take a regional approach to protecting the dolphins. There's different things in different areas here.

Kauai is a little bit different than Oahu. Dolphins around Kauai are different from all of the different types of odontocetes that we have, the different toothed whales, that we have here in Hawaii.

As far as food sources are concerned, currents, depths, water depths, things like that -- thank you. There we go.

Anyway, they sleep during the daytime. We know that.

But we also know and we see -- there's captains here that also see them feeding here around Kauai quite frequently during the daytime. We see



that a lot. Maybe there is a difference between here and Kauai. I think this study needs to look at these differences and see what kind of differences there are as far as regional differences and what we need to look at from one place to another.

Not all dolphins are equal, just like not all humans are equal. We all don't have the same patterns and sleep patterns, and things like that. Although, there are generalities. We all pretty much sleep at night.

I also wanted to know what kind of study was going to work as far as what they're going to look at as far as military action. You know, we have a missile range, which is northwest of Kauai. We have a submarine range, operational area, south of Kauai. They launch missiles.

They're also doing medium and low frequency sonar quite frequently in the Northwestern Hawaiian Islands waters. They're launching missiles out there. There's already been some pollution from these missiles off of Polihale Beach in the sandy areas, like that.

Also, there's a 12,500-foot runway there where aircraft are taking off quite frequently, from everything from C-17s, C-130s, turbo props, to smaller aircraft as well, that are -- I mean, there all the time.

The sleeping areas or resting areas for these spinner dolphins off the west side are in Majors Bay on one end of the runway and off of Polihale, the other end of the runway. So, you know, whether they're taking off, landing, west winds, east winds, doesn't matter, they're going to be impacted by this sound.

Basically, I've been doing tours around Kauai off of Port Allen for about seven years now out on the west side. We go by Majors Bay, seems to be the biggest area, and Polihale, the resting areas for these spinner dolphins.

I have not seen a decline in the spinner dolphin numbers of this area. I haven't seen a decline in numbers nor have I seen a decline in resting days.

My biggest declines that I see are like two weeks ago we had orcas in the channel. There were no dolphins around that day.

When they're doing military operations, they're very -- the dolphins, depending on what kind of operations they're doing, they also get limited as well.

It also depends, of course, what the sonic layers are doing, currents, and stuff like that.

Basically -- I'm almost done.

Basically, what I propose, what I'd like

to see, I'd like to see an approach limit of five knots within 100 yards of the spinner dolphins. I think that's completely feasible. I pretty much do it already. I know a lot of the captains that work out of Port Allen already do something like that.

I don't think there's any need for us to be flying through the dolphins. I don't think we need to fly up to them and stop. I think, like I said, within 100 yards of a group of spinner dolphins, slow down. Five knots is a completely reasonable number.

And I'd like to see a pass limit. So how many passes can you make through the spinner dolphins, one, two passes maybe. I think that's completely good.

So, basically, that's my -- you know, that's my main thing over here. So that's it. Thanks.

MS. COLBURN: And you're Randy?

MR. BANE: Chris. Chris Bane.

MS. COLBURN: Thank you. Okay. Now, Mel, did you pass or are you just switched order?

MR. WILLIS: Switched.

MS. COLBURN: And that's because you're being tactical because of content or --

MR. WILLIS: Just so we don't bore you with duplicating our testimony.

MS. COLBURN: Okay. So our next testifier will be Mel Wills. After that, we'll be hearing from Kawika and Yolanda Cutcher.

MR. WILLS: All right. Thank you.

I've been operating tours around the Napali Coast for 12 years. I can testify that I've seen an increase in the dolphins, an increase in newborn dolphins, that I've never seen a dolphin hurt, injured, by a tour boat or by my boat.

I have seen on occasion captains without much experience going way too fast through the dolphins. Okay.

Now, years ago we had ocean users meetings around this island that captains and crews were invited to, and they were explained the laws and they were presented with the prosecutors who would be prosecuting them if they broke these laws -- what were considered I guess not really laws, but guidelines. So I can tell you that it would be a great help for you to resume those ocean users meetings.

If not -- and possibly require captains with a DLNR Ocean Users Permit to attend those. So they have in paper in front of them what the rules and regulations are, and then they sign that they'll obey them and abide by them. That way, I think, would take care of a lot of your concerns.

I know it would take care of mine.

I agree with Chris that reduced speed is in -- and that's currently my -- the way I operate my vessel is, I see a school or pod, however you call them, of dolphins. I will try to turn the boat and go in the same direction as they are at a greatly reduced speed, almost slower than they are swimming, so as not to disturb the pod.

And what I see is I see newborns swimming right up to the boat, jumping out of the water. I see the same dolphins -- you mentioned identifying dolphins. I see the same dolphins, some for weeks at a time, identifiable by a cookie cutter shark, a notch in a fin, and they're continuing to hang out in the same areas.

As far as bays are concerned, Chris has it right. All along the south shore, you might also identify Lawai Bay as an area.

One concern I have is we see dolphins miles from shore, not in bays. What type of regulation would you have -- I mean, that would be pretty hard to enforce.

Along with just the same thing that happens with humpback whales, I don't necessarily -- on my daily tour, I don't look for dolphins. I do my normal tour route and I will come across dolphins. Dolphins will find me. I don't turn the

boat and head -- I don't have to do that. There are so many of them -- there are so many pods that just -- I don't even have to change my course.

All of a sudden, hey, there's dolphins. All right. Let's slow down. Here we go again. We've got to stop again.

So that's the reality of it out there.

But I think what would really help is the ocean users meetings, and educating the public, educating the users.

I have hundreds and hundreds and hundreds and hundreds of people tell me after a day on the water how much that meant to them, to see the dolphins. You know, the impact -- part of your impact study, the reward and the gratification that people from Iowa, Nebraska, have after being able to see these dolphins in their natural environment, unaffected by human activity, is how it's presented. And it gives them more respect for the ocean. They go home and they -- I think it opens their eyes as to how important protecting our environment is.

So I agree with you that there needs to be some definite provisions made. I think your studies that you did on some of the other islands are quite different than what we have here.

I don't allow anybody to ever swim with a dolphin.

I see another boat swimming with dolphins,  
I will make a point politely at the correct time,  
not in front of paying passengers, to tell the  
captain that that's not -- that's not part of the  
guidelines.

So I will end with that. So thanks.

MS. COLBURN: Thank you.

Kawika and Yolanda Cutcher. Oh, only you?

That's good, because I think only you  
going to fit over here.

MR. CUTCHER: Aloha. Kawika Cutcher  
Koinoa (phonetic).

Let me see. More laws, more rules, huh?

First, I'm going to tell you who I am.

My grandma is Christine Mokukaimalau from  
Kona and my grandfather is Andrew William Kokilia.  
My great grandfather is William Kokilia. My great,  
great grandfather is Andrew Kokilia. My great,  
great grandma is Nolikumoku Akailamahu. My great,  
great grandmother is Nolikumoku Akai. (All  
phonetic)

Okay. I live in the Department of  
Hawaiian Homelands and I always see NOAA making more  
and more laws, and more and more rules.

And they use a lot of science. But a lot  
of it happens to be pseudo-science because I see  
non-native people always come up and say we've got

all these issues, but nobody cares about what the native thinks.

Well, I'm going to tell you what the native thinks tonight. Okay.

You've got too many boats, too much people coming to Hawaii, too much everything.

The nai'a has no problem.

When I was a little boy there used to be a place called the Old Landing in Koloa. And now they've got choke tours. I used to go there and feed the nai'a.

And all the way to 1980, just before Hurricane Iniki, they used to come in over there. And I haven't seen them there in a long time. The reason why, we've got too much people, too much rubbish, too much people using the ocean that don't have the right to use the ocean.

We've got too much foreign individuals owning companies in Hawaii, making a profit off my resources, which we claim. All of the Native Hawaiian people claim all of the resources to this land because it's ours by ancestral right per your constitution and per the State of Hawaii. Hawaii Revised Statutes, Chapter 11, Native Hawaiian Gathering Rights. Okay.

Number two. I've been a fisherman all my life and a hunter when I was small, and everybody



blames, blames, blames, blames, blames, blames  
everybody for what's happening.

The problem is, basically, we've got too  
much people. And all the people want to make money  
off our resources. Everything is to sell and  
prostitute Hawaii. Everything is to sell and  
prostitute our culture.

See all these people up here, it's our  
ali'i. All of those ali'i all believed in one  
thing, (Speaking Hawaiian Language), the life of the  
land is perpetuated in righteousness. Not kala.

Kala is what's ruining our society.  
Everybody know what kala is? It means money.  
Money. The exploitation to make more money, more  
money, more money, more money.

Nai'a over there, he lives a simple life.  
Just like most Hawaiians do. Eat. Sleep. Go work.  
Come home. Eat. Sleep. Go work. Come home.  
Nai'a. Same thing as Native Hawaiians. Eat.  
Sleep. Go work. They get a family.

You know the problem, as I see it, is we  
get too much laws. We don't want more laws. The  
more laws you make, the more bondage the people in.

The more scientific data we have, which I  
think is pseudo-science, monkey science -- and if  
you want to have a degree, I have two degrees. I  
also teach Special Ed. Okay.

You know, you say there's 3300 nai'a in Hawaii by looking off a boat. I can tell you there's way more just by going to Kukuila Harbor one day and looking.

I can tell you by sitting in Anahola Beach on the Hawaiian Homelands, watching them chase the akule that my cousin is trying to catch, there's more than 3300 nai'a in Hawaii. Okay.

You know, if you want to protect things, it's simple. Don't do nothing that's lolo. Don't do nothing that's lolo. That's how you protect things.

Don't pollute the water. Don't drive through the school of nai'a. Don't sell the nai'a. Don't exploit nai'a.

Just the same thing with Hawaiians. Don't use the language. Don't use the culture to make money, because we're sick of it. Okay.

Just like the nai'a is probably sick, too.

And he's sick, sick, sick because a lot of people are just exploiting, exploiting, exploiting, exploiting, exploiting.

Just have some common sense, that's all I say. Just have some common sense. No need any more laws. Just enforce what you got. You can't even enforce what you get because no more enough officers.

How do I know that? Because I used to enforce law at PMRF, where everybody was complaining about PMRF's missile system and all that.

But you know what? The big picture is nai'a is not as important as me or my kamalii, that's the big picture.

When you put nai'a up as the same as a human, then you've got a problem. It means your whole social agenda is wrong.

That's all I've got to say. Mahalo.

MS. COLBURN: Is Dave Fletcher here?

MR. FLETCHER: Hi, everybody. My name is Dave Fletcher. I'm also a captain of a boat company. A lot of my peers are here that I work with.

I've been doing the Pali Boat Tours for quite a few years now.

A lot of what I was going to say was already pretty much said. I think we all kind of feel the same way about it.

A couple of things that I would like to see, community outreach. You know, I know that you've talked on other islands, but I noticed there was none done here on Kauai, which might be kind of important.

Talk about the counts, as the gentleman was just saying, dolphin counts here, 3,300 in the

state, I think it's much higher than that. I've witnessed pods of dolphins over a thousand myself on the boat. So I think a little more research should be done before any kind of laws are passed.

Large-scale movements, we're talking about seeing dolphins. I've been at Polihale just on the beach surfing, sitting out there, seeing a pod of dolphins. Boats go by all day long and -- even as the sun is almost setting, dolphins, the same pod is still there in the same area, never swam away or took off because of people coming by in boats and looking at them. So I haven't seen that on Kauai.

The dolphins usually are in the same areas -- they move up and down the coast, but they're usually in the same spots, and they can hang for a couple of days in the same area with boats going by.

Um, a 50 yards approach limit, um, I think I like this going slow, coming into dolphins. It's going to be hard to enforce an encroachment law like that. Sometimes you're 50 yards away and you could even stop the boat and the dolphins will come right over to you, you know.

And then all of a sudden, what, you're looking at a violation because the dolphins are all around your boat even though you stopped 50 yards away? Something just to consider.

Yeah, that's pretty much all I've really

got to say about it.

Also, really, look at the -- when you're doing the study, look at the low frequency sonar, that's real important, as Captain Chris brought up. That's something that does lots of damage that is -- versus a boat.

That's about all I have to say. Thank you.

MS. COLBURN: Thank you. Let's see. Mimi Oli. Would you like to testify or --

MS. OLI: No.

MS. COLBURN: You just signed on the wrong line? Oh, okay. If you change your mind, let us know.

Kiwina.

MR. SOTO-AMUNDSON: Aloha. Good evening to the maoli of the Island of Kauai and all of the other residents that live here and call this island their home.

My name is Kiwina. I'm from the Big Island of Hawaii. I live in South Kona near the Village of Napoopoo, Honaunau and Hookena. I do have my ohana that lives here on Kauai. So it's always a pleasure to come here.

I've been with this issue since 1997. I have well over four to five thousand hours on this issue, in and out of the water. I've done my

research here on Kauai, Leeward Oahu, Leeward Maui and Leeward Big Island, and many other places where they have been spotted.

And before I even go any further, I would like to make this one thing really clear, we're talking about Hawaiian spinner dolphins. There's a hierarchy of dolphins that really is based on biology, their size, and their closeness to the shore dictates that.

So when you're cruising up and down the coast of Kauai -- and I will say this as my second thing, I would like to compliment the Island of Kauai, their boat operators. For the most part, you are not the ones that we have targeted in my organization, Malama I Na Nai'a, as the ones who are doing numerous infractions of swimming with dolphins. You are not going to hear that from me tonight.

The other three islands, they got their earful. They have the evidence collected against them, but you guys have been really, really good about running your tours out of Hanapepe, Port Allen, Hanalei, up to Napali, and we don't have a whole bunch of nightmare stories about people getting off your boats, off your Zodiacs, and stuff, and cats, and into the dolphins. We're not here to say that.

In fact, you've been pretty much a good steward in exemplifying that.

But there are some things that we have along here.

We're here on Kauai, my organization as I represent them, to say that there are internet web sites related to Kauai masked behind healing retreats, yoga workshops and centers that market your spinner dolphins on secrets, holihale (phonetic), and all over where you might find them targeted during the resting profile of their ecological needs, anywhere from 9:30 to 2:30 in the afternoon in a sandy-bottomed bay. That's easy for anybody, boat operator or non-boat operator, to be able to identify, and put a price tag around.

Some things in Hawaii are not for sale, period.

When you go to take another life from another existing life, we've got to question whether that's lolo or pono. Neither one is okay.

So as far as I'm concerned, my organization has done many years of research and study and input. We are part of an organization that has reported videos, photo-logging, 1-800 calls. We've gone over all of the islands to make sure that magazines aren't marketing wild dolphin swims.

So these are our four recommendations, and I really would like the federal people here from NOAA to hear this. We didn't get a chance to finish this in my four minutes in Honolulu, and I am going to all of the meetings. There's a Honolulu, tonight in Kauai. I'll be in Maui. And I will be on the Big Island. That's going to be a really big fun meeting.

These are our recommendations for the plan that has the most success in managing, the most success in enforcing and the most success, in our belief, in long-term sustainability for the people of Hawaii to demonstrate to the rest of the world why we live here.

Of course, we're going to take that lead from the Hawaiians, themselves.

These are our four recommendations:

That in no way do we support that an SWD program be supported by the Federal Government and initiated in the State of Hawaii waters. SWD program means a swim-with-dolphin program. We do not have the species to sustain that like may be the Florida bottlenose. We don't have that species to support a swim-with-dolphin program, number one.

Number two, we want to decommercialize the industry. We would like to see the Federal Government put cease and desist orders on everybody



who is marketing swimming with dolphins in the State of Hawaii outside of your sanctioned Sequest facilities.

We would like to see them go to the internet, the web sites, the retreat operators, everybody who has any investment and offers a service of taking people off their boat or from the shoreline into the waters with swimming with dolphins, they be given a cease and desist letter with the future possibility of violations of a law.

Third, what we'd like to see is a ten-to-two kapu.

Now, we're talking about spinner dolphins.

So we can pretty much identify the major resting habitats of spinner dolphins around most of the Hawaiian Islands, in generality. Protected bays with sandy bottoms. This ecology holds true here on Kauai, Maui, Big Island, Molokai, Lanai and Oahu. So we would like to see a ten to two, straight across. During those hours, give them at least four hours out of a 24-hour cycle to not have to deal with being chased, harassed or anything, with the exception always, of native gathering rights, always comes first.

Whether it be throw net -- I love -- the Leslies in Napoopoo, if the akule came back, I'll be the first one to help them harvest. But they have

been gone for four years. Boat activity.

Commercial activity. Swimmers. One-third of his income is gone.

How do we bring the Hawaiians back?

Fourth, we would like to see the Federal Government assist the state with financial support both for enforcement and to send out to the rest of the world, if we are going to become the vacation destination of most anybody who wants to take some retreat for themselves, then let's symbolize the spinner dolphin as our symbol of aloha, joy and togetherness, with no dollar sign attached.

Let's let the boat operators go within a respectful guideline. But remember that if you're out there at 12 o'clock, you have no business turning your boat left towards a protective bay.

You want to watch them outside the bay, waive. They're sleeping. Maybe if we catch them after 2:30, 3:00 and they get up from their sleep and they spin and jump for us, so be it.

If you want to see spotted, you want to see bottlenose, stay on your course outside the bays.

Spinners do travel during the day, but not as often as the other dolphins that you're seeing. They need to rest.

The only reason why I'm going to say this

really, really clearly why they need to rest is because I'm really sad and tired of watching these young ones disappear, not making it through their first year because due to lack of rest, as you were shared earlier from our cetacean expert. They don't have the energy to even stay protected at night, much less live past a time where they can reproduce. They're getting full of injuries.

The other thing is, there's prop cuts on all kinds of little ones because we get too close with boats. Go over -- now, not necessarily -- this could have been an accident.

As a matter of fact, I know this was an accident. This was tucked under mom and the boat went over mom, didn't even see the baby.

The babies aren't living long enough to reproduce. The populations are coming down of spinner dolphins. They're easiest to get to. They're easiest to target. They're easiest to sell. Unless we say kapu, we won't have them around. Mahalo.

MS. COLBURN: Thank you.

Is Chris Bane here? Okay. You sure you don't want to -- okay. A second testimony, perhaps?

Andy Evans. Thank you, Andy.

MR. EVANS: Hi. My name is Andy Evans. I've been a boat captain here around Kauai for 26

years now. So I've had a pretty good opportunity to look at the change in the dolphin stocks around here.

Our dolphins are vibrant. They're alive. They're increasing in numbers, and not just by a small margin. I mean, there's more and more on a daily basis.

From what we saw 15 years ago to what we see now, it's increased by a significant magnitude. I think it would warrant some research to prove that out. But I think it's not unusual to see a thousand dolphins transiting a small portion of the island. I think your stock numbers, your abundance estimate is pretty far off if you take Kauai into account.

And that being said, I think that bodes well for the stock that are -- what we're doing here isn't damaging them. If it was, we wouldn't be seeing more and more of them.

I whole-heartedly agree that the swim-with-dolphin program is wrong. It offends my sensibilities as just a human being. It's the wrong thing. If regulation is necessary -- I mean, I can't believe that the existing laws we have on the books wouldn't be able to stop those type of activities because it's just offensive to probably most of the public, and it's offensive to wildlife.

But that being said, I'm concerned that

the regulations that are created may become over-broad and negatively impact other uses of the ocean.

I don't believe -- I don't believe that if you balance out the good of allowing a visitor to view a dolphin respectfully, that the charge they get from seeing these animals in the wild up close, it may help them when they get home not to pour that gallon of bleach down the storm drain.

It really may help them think about their environment a little more. It's an amazing thing when you see people that are touched by these marine mammals.

I'm concerned about the regulation that may come about for this. We have great enforcement people out there right now, reasonable people. They're good people doing their job.

We have had in the past some people that have taken things too far with a real -- I'm concerned about whatever we write down as regulation could be interpreted by the wrong people into creating violation after violation after violation.

Recently, I was powering up along the west side of our island, didn't see any dolphins. Next thing I know, they're on my bow. Am I in violation? Would I be in violation under a 50-yard approach? I had no idea they were there. They came over -- they sought us out.

With the reasonable people we have now enforcing those, I wouldn't be in violation.

But reasonableness has proven not to always have been there among the enforcers.

We need to be very, very certain that whatever regulation is written cannot be construed into being -- into something that wasn't meant to be because the letter of the law is there.

I would urge the Marine Fisheries to certainly enact a prohibition of the swim-with-dolphin program. I think most sensible people could support that.

I would also enlist them to create an outreach program. See if that outreach program works for any of the other problems we're having, people herding, leap frogging, leaving no escape. That's wrong.

But if you codify those type of things and you leave it up to the interpretation of enforcement, it may do more than what you intended it to do.

If the least invasive way to do it is to start with the outreach, and if that doesn't work, let's go forward with the regulation. We don't want to see these marine mammals harassed either.

And I know it's a long process to get that per the regulation, but I don't think that's an

unreasonable intermediate step. Especially, I believe that here on Kauai -- I can't speak for the Big Island or Oahu. I think, all in all, all of the operators are fairly good stewards. I'm sure there are mistakes that happen.

As Captain Mel over here said, the operators counsel each other when they see these things. We don't have too many instances of that here. And I would hate to see regulation that would turn it from a comradery type of counseling into law enforcement. Thank you.

MS. COLBURN: Is Tara here?

MS. LEATA: I'm going to pass.

MS. COLBURN: You're going to pass?

MS. LEATA: Yes.

MS. COLBURN: Okay. How about Charlotte Woolard?

MS. WOOLARD: I'll pass.

MS. COLBURN: You're passing also? Oh.

How about Elaine Valois?

MS. VALOIS: We have two Elaines.

MS. COLBURN: This is Elaine Valois and Elaine Yadao. Auntie, you should come first. Are you Yadao or Valois? No, come, come. Since you're on your way, I just wanted to know which one you were.

MS. VALOIS: Valois.

Something is coming our way that may change all of the wonderful reports about the populations, the healthy populations of our sea life, including the spinner dolphin.

I urge all of you to find out as much as you can about what is about to happen in June of 2007. The Superferry is coming to the island. I had some questions, and maybe some of you here could tell me, how shallow is the swimming -- or deep is the swimming area of the dolphin when they're active? How far -- how deep are they? How shallow are they? All and everything, right? They're just all over the place.

But they do swim close to the surface a lot, don't they? And they love to follow boats and things like that? They're very curious.

The Superferry is called super because it's the largest, high-speed connector vessel that has ever been built. It's bigger than any other military vessels that have been used. It is designed and actually for military -- as a military conveyor.

In fact, if it goes belly-up, the military will have a connector vessel intact, and they can use it as they choose.

We know this, and if this can help in any way, I implore you to include the effect that the



Superferry may have upon the spinner dolphin, if that's your special interest. Because it may be worse than even the sonar. I don't know how, but it can be worse than that.

Well, its hull -- it has a double hull, you know.

It goes down 17 feet. Now, how deep do the hulls of most of your boats go?

It goes 42 miles an hour, and they've got a time schedule. They said they'll slow down to 25 miles an hour if they see dolphins or whales, and so on. But they don't have any means at this point to observe them, because the sonar they were planning to use would have killed them before they even hit them. So the EPA said, no, no, no, you can't do that.

So, so far now, their plan is to use a couple of people with binoculars to see if they can spot the dolphins or whales. At 42 miles an hour, it's going to be a bit late.

Not only that, but the marine life with a single-hulled boat, the aerodynamics of it tends to wash them this way, tends to wash them away.

The double-hull tends to -- when they're caught inside, tends to pull them in. They don't wash them away, and that's been proven by Lee Capply (phonetic), and there's a wonderful film he's done

about this.

A woman who lived in the Bahamas just wrote a letter to the editor this Sunday. I'm trying to get ahold of that lady.

But she said, my heart just sank when I heard that they were going to have one of those Superferries in the Hawaiian Archipelago, in what is probably one of the most extraordinary marine sanctuaries in the entire world.

The path -- she said she went under water to -- you know, one of those tours that go under water and you see the marine life under water. There was something very strange that happened, that there was all of this sea life, and then all of a sudden there was none. There was this gray wasteland. It was like a huge path, like a highway wasteland.

She said, well, that's where the Superferry goes back and forth.

I'm telling you, this is so serious. It matters so much that we do what we can, no matter what Governor Linda Lingle has said, that it's a done deal, go home, go back to your rooms, you can't change anything. Yes, we can, and we're going to, and we want to connect with all of you other organizations.

I represent the People for the

Preservation of Kauai, and this includes the oceans, as well as the land and the air that we breathe. We want to keep this miracle of the earth as beautiful as we possibly can, and we don't want that thing to come to Kauai. So let's get together on all of this, and to be sure to include that in your EIS. Don't let it go. Thank you.

MS. COLBURN: Thank you.

The other Elaine, which would be Yadao, is that correct?

MS. YADAO: Yes.

Hi. I'm the other Elaine.

I -- Kawika Cutcher pretty much said it all, and the other gentleman, and Elaine.

I can tell by the number of boat operators here tonight that it's a real concern that this could cut into your profits.

As Kawika was saying, that the exploitation in Hawaii is the big problem. It's a feeding frenzy. The best suggestion -- and I'll be putting it in my comments, my written comments, and it's what I was discussing outside at the break, is to eliminate all of the promotions from brochures, internet, and stop it there. That should cut back a little bit.

I would also, as far as enforcement goes, I would recommend random, anonymous tour rides by

officers. Where every once in a while there's an officer with a camera in an aloha shirt, and the captain of the boat isn't aware of it.

Another thing I would recommend is some plaques onboard the boats, the tour boats. Something like a license plate, something that's not to be removed, that has a number on it, and encourages tourists to report any wrongdoing by the captains of these boats, and any deviation of the rules that are finally laid out.

Because I don't know if everybody remembers years ago, it was a cruise passenger who reported the boat for illegal dumping. Otherwise, nobody would have known it. So a plaque that's got to be on the boat, has a phone number and states that the captain is not permitted to do certain things, and if you as a customer on that boat sees it, you're urged to report it.

I came here tonight because my main concern is the sonar, active or passive, and what its effects are on dolphins.

We know about -- pretty much we've heard a lot about the whales, but I'm really concerned that that's some ugly stuff. That is a real -- a real assault on nature and all things in nature.

And the Superferry. Two big vile, vile things that have to be looked into and stopped.

But that's all. I'll be submitting some written comments.

My friends say there's no way to -- no way to keep the dolphins from the boats because they follow the boats. But with all of the exploitation that's going on with these tour boats, there's got to be some guidelines. And not only dolphins, it's going to affect a lot of other situations, too. So we've got to protect the Hawaiian Islands for obvious reasons, and I won't be so presumptuous as to say these are our islands or our dolphins or our waters, or any of the above. It belongs to the kanaka maoli. (Applause)

MS. COLBURN: Thank you, both Elaines.

That brings us to the end of the list of individuals who've expressed a desire to share testimony this evening.

A suggestion was offered to me during the break that -- and your testimony bore out the fact that many of you have very specific and current knowledge of the resources that may go beyond what is currently available or known to some of the folks at NOAA who are tasked with coming up with these prospective rules and regulations. Since we're done about 20 minutes before we thought we needed to be, what I'd like to do is invite interested parties that would like to share any of that information

with NOAA staff, who've agreed to stick around and who are eager to learn more about your observations and understanding of the local dynamics of the spinner dolphin.

So if there are no other people signing up to give testimony, may I encourage you, one, if there are questions that you would like to see addressed in the Draft EIS, please jot them down on the post-its. There are a couple there that we've stuck up on the wall. Please add yours, too.

If you wish to submit written testimony this evening, or even after the fact, you may do so through November 24th by using the form in your packet.

Know that your questions and your testimony will help the staff at NOAA in their efforts to prepare a meaningful and responsive Draft Environmental Impact Statement.

If you have questions -- I guess I covered that.

I guess all we really need to do now is to suggest to you that you travel safely to your respective destinations tonight. We thank you for making this a priority -- yes.

AUDIENCE MEMBER: With the additional time and the many years of experience and research you have in this room, I can't understand why you

haven't invited people up for additional comment time. You're -- NOAA is five or six years too late.

I have an article here in 2001 that highlights the urgency of this issue as (inaudible) from National Marine Fisheries Service made it out here to a packed room on Oahu and the Big Island. Now, five years later, and our spinner dolphins on the three major population islands are down by 400 more percent in numbers, and I find a level of frustration -- and I believe within my right that you guys are not the experts as you've so well given us that indication tonight on this topic.

The Hawaiian families, the fishermen, the boat operators, the ones who have taken their time to watch this on a daily basis and to work to do whatever they can, they're trying their best effort to collectively, as a group of islands under one flag, come up with an answer or a solution that would be able to move this forward in a positive way --

MS. COLBURN: Well, may I see by a show of hands how many would like to share any additional thoughts in the time that we have remaining. Okay.

And is there anyone -- well, also by show of hands, how many of you would like to have that on the mike so you can all hear it, and how many of you would just prefer that you interact directly with

the NOAA staff who've agreed to stay an extra few minutes?

Show of hands who want to hear what he has to say on the mike. Or do you favor cornering your favorite NOAA person and trusting them with current information that you have from firsthand experience. Show of hands.

Individual interactions --

AUDIENCE MEMBER: Individual interactions.

MS. COLBURN: Okay. All right.

Thank you for that suggestion. I think perhaps the individual will allow you to kind of zero in on the person who will most benefit from the knowledge that you're willing to share.

I know we have at least 15 minutes. I guess I could ask them for another 10 beyond that. Is that something you could tolerate? Okay.

So until 8:40, they're going to be here to accept anything you would like to share.

We thank you for your making this a priority tonight. Thank you very much for your attendance.

MS. LEFORS: I'd just like to thank everyone for coming. We will definitely stay as long as need be to talk with you, answer any questions you might have and listen to what you have to say. Thank you.



(Meeting adjourned)

## Maui Public Meeting

## Kona Public Meeting

TRANSCRIPT OF  
SPINNER DOLPHIN/HUMAN INTERACTION  
ENVIRONMENTAL IMPACT STATEMENT  
PUBLIC  
SCOPING MEETING

Held in Kailua-Kona, Hawaii

King Kamehameha Hotel

On

Thursday, October 26, 2006

(Thursday, October 26, 2006, Kailua-Kona)

(Opening ceremonies)

MS. COLBURN: A special mahalo to Ulaia Berman (phonetic) to help us get focused. (Applause)

A special acknowledgement also for the moopuna who are learning the chants so then they can pass them on to their children.

Aloha. Good evening, everyone. My name is Linda Colburn. I'm here to help moderate the discussion this evening. This evening we're here to talk about NOAA's Spinner Dolphin/Human Interaction Environmental Impact Statement Public Scoping Meetings.

As I said earlier, my job is to keep us on track this evening.

This is the last of four scheduled meetings by the National Oceanic and Atmospheric Administration. The first was held in Honolulu on the 17th of October, the second in Kapaa on Kauai on the 19th of October and on the 25th we met in Kihei. Tonight, we're here in Kona and disappointed that so few of you took the time to join us. (Laughter)

Before we get into the formal part of this evening's program, I would like to just point out a few housekeeping matters for your comfort and convenience.

(Miss Colburn made a few housekeeping announcements)

MS. COLBURN: The scoping meeting agenda

is pretty straightforward. I would just like to recap it for you.

First of all, there is going to be a short presentation that will tell you a little bit about just basic information about the scoping process. We've provided you with an overview of the status of wild spinner dolphin populations and a little bit of an overview of some of the research that we have -- that the scientists now have available relating to spinner dolphins.

We've provided also some background information about the federal rule-making process, probably one of the more invigorating portions of the program.

And an overview of the requirements of the National Environmental Policy Act, which many people refer to as NEPA.

There is also going to be just a very brief review of the proposed action, purpose and need from NOAA's current perspective and a short discussion of some alternative scenarios.

Believe it or not, we've made provisions to save the bulk of the time this evening to hear from you as you give testimony this evening. So we would like to encourage you to sign up so that we know how many people we need to accommodate and how much time we can apportion to everyone.

Secondly, if you are shy but have something in writing that you would like to submit, that would be accepted happily this evening as part of the record.

Let's see. I believe written comments can be turned into any of the NOAA personnel this evening or up until November 24th. Is that correct?

This evening's testimony will be reported by a court recorder, who is seated over here to my left. Doy Farwell is best able to capture accurately what you have to say if people speak one at a time and are free of interruptions. So I hope we can help her do her job as best as possible in that regard.

If you have questions about issues related to tonight's spinner dolphin interactions and the EIS, please feel free to talk with the NOAA resource staff, who are conspicuous by their tag with the NOAA emblem. During the break or after the meeting, we'll provide some time for that as well.

This evening's meeting is not a Q-and-A session. It is not a Q-and-A session per se.

What we want to do this evening is to provide you a forum for raising questions in writing. Also, providing your testimony so that we have a full understanding of the range of positions that people have and concerns that people have so

that the staff can use that to do a Draft Environmental Impact Statement, which will be brought back for public comment in the months ahead.

To set the stage for the NOAA staff presentations to follow, I would like to introduce at this time Chris Yates, who is NOAA's Assistant Regional Administrator for Protected Resources in the Pacific Islands Regional Office. He will explain a little bit more about NOAA's interest in this issue while we're here to listen to your testimony this evening.

Please help me welcome Chris Yates.

(Applause)

MR. YATES: Thank you very much.

I want to start by giving my thanks, and everyone on the NOAA team's thanks you for coming out tonight. This process is contingent upon getting good information from all of the stakeholders.

We have a lot of people with varying viewpoints in the room tonight. I want to start by saying that we are very, very sincere in getting all information that we possibly can, all viewpoints, so that we can try to come up with a solution that best serves everyone's interest.

So with that, I want to just take three slides right here just to kind of cover some of the



points that Dave and Lisa and Jayne are going to present to you in about a half-hour presentation that will span the scope of the things that we'd like for you to know what we're thinking about.

I'm not going to read the slides, but as everyone here in the room knows better than I do, that the interactions with spinner dolphins in their resting habitats has been increasing, has been increasing at a substantial rate, and that the numbers of people that are in the waters near the spinner dolphins when they are in their daytime resting habitat is increasing.

To kind of set the stage, NOAA Fisheries wants people to be able to appreciate these animals. We appreciate these animals. I'm sure everyone in this room appreciates these beautiful animals.

We want people to be able to make a living sharing that with our residents and our visitors here in Hawaii. But we want to find a way, a common sense solution, that allows them to view these beautiful animals and still protects them and ensures that they'll be around for generations to come.

That's kind of the bottom line of what our concern is.

We are very concerned that the types of interactions, the frequency of the interactions and

the duration of the interactions with humans when these dolphins are in their daytime resting habitats has a potential to cause serious harm to the population of these animals.

The interactions, also, as many of you know, really, we feel, cross the boundary of responsible wildlife viewing and responsible behavior and giving these animals the respect that they should have from us.

As you know, the dolphins rest during the day. They go out and feed at night. They have evolved over thousands of years to come to these very predictable shallow bays and rest during the day.

The analogy that I like to think of is, when you go home tonight, if someone is in your bedroom making a lot of noise and bouncing around and doing things, you're not going to get a very good night's sleep. When you go to work tomorrow, you're not going to be at top form.

If someone is in your bedroom every night bouncing around and making a lot of noise, over time you're going to have a reduced ability to do your job.

These dolphins' job is to go out at night and feed. If we are continually limiting that ability for these dolphins to exhibit their natural

behavior and rest during the days, we feel that that has a potential to have some serious negative consequences to these animals, and that's what I think all of us want to avoid.

One of the things I'd like to say is that a lot of people have talked to me about how the dolphins choose to interact with them. I use the word "choose" somewhat literally, because we really don't know what dolphins choose or don't choose to do.

But I would say that dolphins, like other animals and humans, often choose to do things that aren't necessarily in their best interest. Lots of cases of wildlife management that you can know about, bears eating out of dumpsters, people staying up late at night and doing things when they should be home resting. All of those types of things are choices that are made that aren't necessarily good, and humans are the ones that are in those areas that are enabling that type of lack of rest to occur.

So the choice is somewhat not the issue here. It's a choice of how we choose to behave in order to allow these animals to do the things that they need to do.

The presentation will give some information on the various options that we are looking at based upon the input that we got over

previous public input of ways to address this issue.

The one that we are putting as the -- the option that we're most looking at is some sort of limited time/area closures to keep people and dolphins separated in certain discrete areas for certain discrete amounts of time.

I want to say right away I've had a lot of conversations already tonight with folks that are talking about specific areas and other types of ocean use that's occurring in those areas, and that's exactly the type of input that we really want from people in this room, and through this public process, is to let us know what's going on in those certain areas, what common sense approach you think would help us make good decisions, common sense decisions, of how we can reach our end goal of giving these dolphins the ability to exhibit their natural resting behavior for certain periods of time while still allowing all of the other ocean use to occur, not unduly infringing upon other people that have other interests out there.

So before we even get into that, I want to let you know that we have no preconceived notions of where those areas are, what times they would be, what other types of use may or may not be compatible with our end goal.

That's really what we need your help on,

to let us know what types of issues. Because we're not experts on every single area around the State of Hawaii. So we need your help. It's really something that will be crafted with the Hawaii community, to find a common sense approach.

So the process that you'll hear about tonight is this document that is called an Environmental Impact Statement, and that will look at evaluating all of the potential impacts from these various alternatives that you'll hear about.

Those things will explore the full spectrum, not only the impacts on the spinner dolphins, themselves, but the impacts on all of the people, potential economic impacts, all of the various things. Other ocean users. Everyone who has a stake in -- that may be affected by the ultimate decision, this EIS will cover all of those things. So that's where we really need help from you.

We are really sincere about trying to address all of the stakeholders and all of their interests in this process.

As I mentioned, this is just the beginning. No decisions have been made. We really don't know how this will end up.

Our goal is to try to find a solution that gives these animals some protection so the

generations to come will be able to enjoy them, but still allows all of us in the room to enjoy them, allows us to do so in a common sense, respectful way that we can all be proud of. So we really need your help.

So, again, I really want to thank you for coming out tonight. Please note that these public comments will be recorded for us. We really want as much specific input as you can give us.

You can write down written comments.

You'll see throughout the evening, there's various ways up to November 24th to give us comments via e-mail or by sending it in.

It will come back again when we have a Draft Environmental Impact Statement. We will have a similar type of meeting.

Any of you who want to discuss these things further, we are open to that. We will give you all of our contact information.

So I really thank you for being here.

Hopefully, this short presentation from Dave, Lisa and Jayne will give you a better understanding of the process, and I look forward to working with everyone to find a good common sense, practical solution to this issue. So thank you very much. (Applause)

One thing I forgot was to introduce Dave

Johnston. He's up next.

Dave is a cetacean biologist with our Science Center. Dave has a PhD in marine mammal science. He's studied marine mammals on the East Coast, both coasts of Canada, on the Pacific Coast of the United States, throughout Hawaii and the various areas in this Pacific Region. He's published all sorts of papers and done a lot of things. He's a much smarter man than me, so please give him your attention. (Applause)

MR. JOHNSTON: Thank you. I want to thank everybody for coming out.

I'm going to do a very brief overview of some of the biological and ecological key points that we are trying to get across tonight, things that are important when you consider why we're doing this.

It's not a very detailed, in-depth overview of spinner dolphin biology, but it's some key points. I'm happy to talk with people about these afterwards if I don't get all of the points across.

You guys know a lot about spinner dolphins so I'm not going to go into too much detail.

They are a small dolphin. They live in coastal waters. They live in the open ocean as well. We're interested in the animals that are

living close to the coast.

They grow up to about seven feet, weigh about 165 pounds or so. They have a long, slender beak. They're dark gray on the top, light gray on the sides and whitish on the bottom.

They specialize on foraging on small mesopelagic shrimp, squid, animals that live in the mid-depth waters. These animals migrate up into surface waters at night, and that's a very important point to think about when we're considering why we're interested in spinner dolphins and their behavior and the fact that they're working at night.

During the day they have a strong affinity for shallow bays, often with sandy bottoms. They use these areas for their social activities when they're transitioning from their foraging mode into their resting mode.

Also, for caring for their young and the kinds of things that we do when we get home from work.

Just a really brief slide on the actual population status and management.

Spinner dolphins are common throughout the entire Hawaiian Archipelago. We have them here on the Big Island. We also have them up at Kure, up into the far northwestern-most part of the Hawaii EEZ.



They are currently managed under the Marine Mammal Protection Act as one stock, the Pacific stock. The estimate that is used in our management is about 3,300 animals that was generated from a ship survey that worked through the entire EEZ. We know that this estimate is biased because the ship can't come in too close to shore during the daytime when people are observing.

We also have evidence that there may be even as many of these as -- almost as many dolphins just around the Big Island. But we don't have published estimates.

AUDIENCE MEMBER: That's not true.

MR. JOHNSTON: Beg your pardon?

Anyways, thank you.

So the point is, is that this is the population estimate that is being used right now. We're working towards generating better abundance estimates, and that's something that I'll talk about at the end.

I wanted to spend some time on this diagram here, which really describes a general day in the life of a spinner dolphin.

There's a poster up here on the side as well that people can take a look at during the break.

It kind of describes what they do during

the day in general terms. I hope everybody can see that all right.

On the left side here, it's at night. Here, the animals are slightly offshore, moving back and forth. They're diving down, feeding on this deep scattering layer, these fish, shrimp and squid that are coming up closer to the surface during the night.

They work cooperatively, often in pairs. They bunch up these prey items into balls and take turns going through them and eating. So they're working the night shift, compared to what most people do.

They're quite busy. The research is telling us now that while they're out hunting, they may be having to consume one to four prey items per minute over maybe a ten-hour period of foraging to maintain their energetic needs. So they're very busy when they're doing this.

During the day, they come in. They use shallow bays and coves, often with sandy bottoms, to rest. Here, they socialize in their transition between these areas and care for their young.

People think this might be a very important way for them to avoid predation by sharks, and that's an important point.

Their resting behavior has been clearly

defined. You can tell the animals are in the resting area. They're not jumping as much. They're not doing their spinning behavior as much. They're spending much more time under water. They're surfacing is very fast and synchronous so it's obvious that they're in their resting mode.

During this transition time is when we actually see them doing more of their social things and more leaping and spinning, and that's the time that people actually really like to see them doing their stuff.

I'm not going to go into a lot of different points about the interactions. We know that there are lots of interactions going on between humans and dolphins and we know that they have the potential to disturb them during their resting time.

A recent paper that was published in Aquatic Mammals illustrated that on the Waianae Coast at Makua Beach that the resting behavior of spinner dolphins in that area was delayed and compressed when there were lots of people in the area.

In fact, the more number of people that were in the water, the faster the animals would leave that area. So we know that they're having an effect in that area.

There are researchers that are working

here and have been working here since the 1980s to study this, and they have illustrated that these animals can be disturbed in their resting habitat and it can have negative impacts on these animals.

We also know that it's happening frequently. It's happening frequently in many areas.

I can tell you that every time that I've been to the Big Island -- I haven't been here for that long, but every time I come down and I go snorkeling at Honaunau, there are dolphins there and there are people in the water with flippers trying to herd them into an area and chasing them around. So I know it's happening, even from my own personal experience, besides from the many, many studies that have been done that see this.

The take-home message there is that there is a huge potential for these animals to be disturbed every time they are at home trying to rest.

So what does that mean for spinner dolphins? Well, we don't have population level studies here to really develop that. They haven't been published. We're hoping that there are people who are working on those things that we're trying to develop, project, so that we can get at those answers as well.

But I'd like to go back to Chris' analogy about coming from work. You've had a hard day at work. You come home. You want to relax. You want to hang out with your kids, do the things that you want to do and then you want to go to bed.

Another personal example, when I lived in Kailua on Oahu, every night there was a car alarm that went off and it woke me up. I'll tell you, after a week of that I was beat. So we're worried that that's happening with spinner dolphins as well.

Spinner dolphins have evolved over time to come in and use these places to rest.

So what does that mean?

On one level it means that they might have a reduced ability to go out and forage, and that could have very serious effects for these animals. It reduces their ability, it can reduce their ability to grow or reproduce. Those are really important things.

They're very hard to detect. It's very hard to detect these things.

Another interesting point is that if animals are being dispersed in areas, it may actually make them more vulnerable to predation by sharks, which is another key component to think about.

We know that this is happening and that

it's having effects on populations in other places.

People in New Zealand and Australia are ahead of us. They've published some great studies that show that even just adding one operation in an area can actually reduce the relative abundance of animals in that area and cause them to go someplace else.

They don't even know actually where the animals ended up going. But we do know that the abundance of animals was reduced in that area.

Because of that, the Australian Government actually reduced the permit levels to bring things back down to what was sustainable for that area.

So we know that that's happening. We know we have examples from New Zealand where animals are being displaced from important habitat. Different species. So we're very concerned that that's happening here.

So what are the implications for Hawaiian spinners?

Well, we all agree that Hawaiian spinners are an important ecological and cultural component of the ecosystem here. We know now from the studies that have been published even for this area that their behaviors can be altered by human interactions.

We know in other places it's having

detrimental effects on populations.

We're concerned that spinner dolphins, because they've evolved this behavior of having to use these coastal areas that provide great access to people, that they may even be more susceptible to these types of things, and that's a very serious worry for us.

The science is telling us now that we have the opportunity to take a precautionary approach and move ahead and try to act now before we harm or further harm spinner dolphins in Hawaii.

So we can act now, but we're also trying to study dolphins and understand more about what's going on so we can help guide management and move things forward.

We've been helping researchers at the Hawaii Institute of Marine Biology to study the genetics of spinner dolphins throughout the archipelago so we can understand how closely related the dolphins on the Big Island are to the ones that we see on the Waianae Coast of Oahu, to the ones that are up in the Northwestern Hawaiian Islands.

We're also working to develop objective ways to identify and characterize resting habitat. We know they use close enclosed bays. We know that they often have sandy bottoms. But there may be specific components of those bays that are important

that spinners choose as primary resting areas or other areas that they use less frequently. We would try to develop a model we could use to apply to a dataset and go and find these other places and figure out what areas we need to protect, what areas are important and why they are important to spinner dolphins.

We're also developing a long-term photo-identification process, a collaborative catalogue. We're inviting researchers who study spinner dolphins by taking photos of them to start contributing their I.D.s to a central catalogue so we can start making comparisons between islands, between different places, to understand a bunch of different things about the dolphins.

They're very powerful techniques. They take some time. But we can use them to look at how it supports the genetic data. The genetic data are talking about things over a very long term. This provides information on a much shorter time scale, how often do we see dolphins from the Big Island moving to Maui or the other places.

We can understand more about individual habitat use. Some of this data exists already. So we're actually hoping that researchers will be contributing this data into a central catalogue so we can start making these comparisons.



We can look for large-scale movements here.

Most importantly, we can start understanding more about survival rates and reproductive rates by looking at how long animals live, how often they reproduce. These are really important things when you think about how we may be affecting animals in this coastal environment.

Also, one of the best things about this is that we can develop very good population estimates, estimates that would be for different stocks or different groups of animals that we know through the genetics or the photo I.D. data to be managed separately.

Finally, we're working towards developing further projects to study human/dolphin interactions. We're hoping that we can come up with some great ideas there as well.

So I just want to give you this. This is a list of references. This is in your information packs. There are copies of the posters in your information packs as well. There's another list of references there. I encourage everyone to go home and read these things.

If you have a hard time getting ahold of some of them, my contact information is at the end of the presentation. Please get in touch with me.

I can help facilitate getting that information into your hands.

If you want to talk to me a little later, that's good, too.

(Cell phone interruption). That's probably my phone.

So I'm going to hand it off to Lisa Van Atta, who's going to talk about the Marine Mammal Protection Act. Thank you.

MS. VAN ATTA: Hello and welcome. Thank you again all for coming.

I'm going to talk to you tonight about the Marine Mammal Protection Act and the current protection that spinner dolphins are afforded under that act.

So, basically, there are two ways that spinner dolphins are currently protected.

One is the Responsible Wildlife Viewing Guidelines that NOAA has on their web page that's listed there; and

Two, is the take provisions of the Marine Mammal Protection Act.

So I'll start with the guidelines first.

Basically, the guidelines are recommendations, and they recommend two things.

First, that everyone view dolphins from a safe distance of at least 50 yards.

The second is that you refrain from trying to chase, closely approach, surround, swim with or touch dolphins in the wild.

The problem with this is that these are just guidelines, and what we are seeing is increasingly individuals crossing the boundary of responsible wildlife viewing.

So the second protection measure I mentioned is the take provisions of the Marine Mammal Protection Act. This act prohibits take of any marine mammal, including Hawaiian spinner dolphins.

Take is defined in the Marine Mammal Protection Act. It means harassing, hunting, capturing, killing a marine mammal in the wild or attempting to do any of these things.

As you all know, NOAA Fisheries is the federal agency responsible for implementing the Marine Mammal Protection Act. As such, this agency has further defined what take means. It means, according to NOAA regulations, that the negligent or intentional operation of an aircraft or vessel or the doing of any other negligent or intentional act which results in the disturbance of a marine mammal.

Also, feeding or attempting to feed a wild marine mammal is also prohibited.

So I've just sort of listed out all of

those things that are prohibited by the act.

Clearly, in this case, we're not concerned with killing or capturing dolphins.

What we're concerned with in this case is this cumulative disturbance that is ongoing. The Marine Mammal Protection Act translates disturbance into harassment. This term is also defined in the Marine Mammal Protection Act.

Harassment is defined to mean any act of pursuit, torment or annoyance which has the potential to injure a marine mammal.

It also means, has the potential to disturb a marine mammal in the wild by causing a disruption of behavioral patterns, and that's the point I really want to emphasize here. It's not any disturbance, it's a disturbance that changes the behavior of animals in the wild.

But terms like take and harassment, they can be very subjective. What we've discovered over the years is that they're very difficult to enforce. They're even more difficult to prosecute.

The bottom line is that we feel that spinner dolphins are just currently not getting the protection they deserve. What NOAA Fisheries believes is that a spinner dolphin specific rule would address the problem more accurately and efficiently.

That brings us to where we are now, and that is an Advance Notice of Proposed Rule-Making

When NOAA undertakes to issue a rule, the first step is to announce it to the public and seek public comment. That is what we did last December. We published what is called an Advance Notice of Proposed Rule-Making, and we went out for public comment.

In that notice, we alerted the public that we are seeking input on implementing management measures or regulations. We requested comments on six options.

These options were the following:

The first one was that we were considering taking the current marine mammal viewing guidelines that I just mentioned and making them into law.

The second was to take those guidelines as a starting point and really refine them, revise them to address our spinner dolphin issues.

The third is one that many of you in this room are probably familiar with, and that is establishing a minimum approach rule. This would be similar to what we have for our humpback whales in Hawaiian waters.

The fourth was to restrict individual activities of concern, such as forbidding specifically swimming with dolphins, as just one

example.

Five is restricting vessel activities of concern. For example, herding dolphins, surrounding dolphins, leap-frogging, those sorts of activities.

Finally, we suggested the possibility of establishing time/area closures in certain bays.

So we were very pleased to receive almost 200 comments on these options that we took forward. Two-thirds were form letters, but one-third were very substantive comments.

We read all of these comments, took them very seriously. There were numerous options not only related to the six options I presented, but there were also new ideas that people came up with and that we considered.

Some of these included pretty innovative permitting schemes, increased enforcement, different education and outreach opportunities, the need for increased research, monitoring and reporting.

What I really want to emphasize here is that we listened to these comments and that's how we came up with the proposed action and the alternatives we're considering here tonight.

Likewise, we'll be doing the same thing during this next step. We'll collate all of the input that you all give us tonight and in the written comments and we'll use that to write our

Environmental Impact Statement.

So the bottom line is your input is very important and is very much welcome.

So seeking public comment through the ANPR process is required under the law. But we also undertook a pretty comprehensive community outreach effort in the fall of 2005.

We undertook interviews, site observations, participant observations and focus groups on three different islands to try to get at the social aspect of this issue, how people are interacting with spinner dolphins and what the social concerns were; that is, what were people's concerns about how this potential rule-making would affect their lives.

We were able to identify categories of access through this process. By that I mean, how are people actually interacting with dolphins, how are they getting to the dolphins, whether that meant motorized vessels versus kayaks, beach-based swimmers, and a whole host of other ways that people are able interact with spinner dolphins.

We talked to multiple categories of stakeholders. In return, we got a multitude of viewpoints and concerns held by various groups.

Because this rule-making process is going to have environmental impacts we are required to do

an Environmental Impact Statement. At this point, I would like to turn the presentation over to Jayne LeFors, who is the project manager. She'll talk about the NEPA process and the EIS. Thank you.

(Applause)

MS. LeFORS: Thanks, Lisa.

I would also like to thank everyone again for coming tonight and fitting us into your busy schedules and maybe even foregoing a hot meal to be here.

I just want to give kind of a brief overview of what the National Environmental Policy Act is and what it requires of federal agencies.

This is definitely kind of boring, so please bear with me. I'll go through this as fast as I can.

NEPA is something that encourages harmony between humans and the environment and promotes efforts that will minimize damage to the environment resulting from federal actions.

It's also meant to enrich our understanding of our natural resources.

There are certain requirements that federal agencies have to follow. NEPA is a federal law that requires that any time a federal agency decides to undertake an action that could have significant effects, we have to analyze the impact



of those effects on the environment.

We have to consider those consequences early in the decision-making process so that we can prevent or eliminate any kind of environmental damage.

We are also required to seek out public comments on what we're proposing to do, and that is what's happening here tonight during the scoping process.

There will also be other opportunities for public input, as Lisa mentioned, once the Draft EIS is issued.

So one thing that NEPA does not dictate is what our decision should be. It simply tells us that we have to get the best information that's available in order to make an informed decision.

So what's usually included in an Environmental Impact Statement?

There are certain things that are required by law, including:

A purpose and need for the proposed action.

A reasonable range of alternatives to meet that purpose and need.

There has to be a description of the environment that would be affected by these proposed alternatives and the proposed action.

Then an analysis of the environmental consequences resulting from those proposed actions.

So just to kind of summarize what the Spinner Dolphin/Human Interactions Environmental Impact Statement will be about:

It will analyze the effects of current and proposed management actions to protect wild spinner dolphins in Hawaii and the effects of those proposed actions on the environment. Specifically, on the human environment.

Now, that's a term that is used in the National Environmental Policy Act. By the human environment, we don't just talk about the ecosystem and the wildlife and its habitat. We also have to consider things beyond that.

These are some of the factors that are typically considered in an Environmental Impact Statement:

Threatened and endangered species.

The effects to other protected species, like marine mammals or seabirds.

Unique geographic areas, like marine sanctuaries or wildlife refuges.

Also, critical habitat that's been designated for threatened and endangered species.

And Essential Fish Habitat.

We also have to look at the socioeconomic

effects. For example, the effects to coastal or subsistence communities and cultural and historical resources and the economic and social characteristics.

Another requirement is to look at the cumulative impacts. What I mean by that is all of the past, present and reasonably foreseeable future actions that federal agencies are undertaking or have undertaken.

We also have to look at both short and long term effects and direct and indirect effects.

So the purpose and need for the proposed action, we kind of like to think of the need coming first, actually, even though it's not written that way in NEPA. But NOAA believes there is a need to implement measures to protect wild Hawaiian spinner dolphins from human interaction due to the increased frequency of and demand for these close interactions.

The purpose of the proposed action is to develop measures to protect spinner dolphins in the wild from human activities that may result in their unauthorized taking or may diminish the value of their important resting habitat or cause detrimental population or individual impacts.

But at the same time, we need to look at minimizing the effects to other ocean users.

So the proposed action that we have so far come up with based upon the comments that were received, as Lisa mentioned, under the Advance Notice Of Proposed Rule-Making is to implement time/area closures in certain dolphin resting habitat during certain times.

This has not been predetermined. We are open to suggestions on this. We know that there is a lot of specific information about where exactly the dolphins are resting, what times they come in to rest. It varies from island to island. It varies from place to place.

We also know that there are other uses that need to be considered when implementing a closure of this type, including Native Hawaiian cultural uses, safe harbor to boats, boat transit, and things like that.

Some of the alternatives that we're going to consider to that proposed action would be:

Just maintaining a status quo, which is called the no action alternative.

Minimum distance limits, similar to what the humpback whale approach rule is right now.

Regulating types of human activity.

Also, we will be looking at complete closure of spinner dolphin resting habitat.

So maintaining the status quo, obviously,

no regulations -- no new regulations would be implemented and the dolphins would simply be protected under the current Marine Mammal Protection Act regulations.

Minimum distance limits. The humpback whale approach rules are 100 yards for boats. We could consider 100 yards. It could be 50 yards. It may be something else. But it would accommodate a reasonable level of viewing.

Regulating the types of human activity would be potentially something like limiting the use of kayaks to approach dolphins or chasing dolphins, possibly prohibiting certain types of water craft in those areas.

Then on the opposite end of the extreme from no action is complete closure of all known spinner dolphin resting habitat to all commercial and noncommercial uses. But, again, there would have to be exceptions for harbor transit and for safe harbor for boats seeking refuge from bad weather.

Some of the major issues that we feel will need to be addressed in this Environmental Impact Statement include the information needs. We know that we don't know enough about these animals. So we do need more information and more research does need to be done.

The locations, the duration or timing of the proposed closures would also be an issue to be addressed.

Determining what types of mitigating measures that might reduce the impacts of these regulations on other ocean users, for instance.

As I mentioned before, the cumulative impacts of this action combined with other federal actions that are currently occurring in the ocean habitat.

Then we also will be looking at the economic and social impacts of any proposed regulation.

Because we recognize that there could be substantial economic impacts, especially to tour operators and to possibly tourism, in general, in the Hawaiian Islands resulting from these regulations, we will be required to do an Economic Analysis under the Regulatory Flexibility Act.

This is another federal law that requires federal agencies to analyze the impact of any regulatory proposals on small entities, which are small businesses, not-for-profit organizations or small governmental jurisdictions. We are required to analyze effective alternatives that would minimize impact to these small entities and then to make that analysis available for public comment.

So this Economic Analysis under the Regulatory Flexibility Act will be an appendix to the Environmental Impact Statement.

So what is the time frame we're looking at right now? This is a tentative schedule. This is by no means set in stone.

We are currently at the very first step of this process, which is the scoping period. That will continue through November 24th.

I would encourage all of you, if you're not turning in comments this evening or giving oral comments this evening, to please remember that date and either send us an e-mail or send us a letter.

After we receive all of your comments, they will be compiled and analyzed and a scoping report will be made, and that will also be made available, most likely on our website. We could also send it by mail to all of you who attended these meetings.

Once we've done that, we're going to begin work on the Draft EIS and also the proposed rule, which we anticipate to be available in the fall of 2007.

Then there is another required 60-day public comment period once the Draft EIS is made available. A round of public hearings will also be held as a requirement of the rule-making process.

Again, we will analyze those comments. We will have to respond to those in the Final EIS.

The Final EIS, we anticipate will be in winter or spring of 2008.

There is another 30-day waiting period once the Final EIS is published and then the Record of Decision can be signed and the proposed rule can be published in the Federal Register.

Then there is another 30-day waiting period once the regulation is published before it actually goes into effect.

As you can see, this is a very long process and we will do our best to speed it up as much as we can. But at the same time, we want to do the best job we possibly can and make sure that we've considered all of the potential impacts.

So as you all well know, the federal government moves very slowly, but we are doing our best because we feel that the dolphins need protection as soon as possible.

If you'd like any additional information, this is all of our contact information, those of us who have spoken tonight; our phone numbers, our e-mail addresses. All of this information is also in your packets. All of the slides that you're seeing tonight are in your packets. So you have that information at your disposal.



We encourage you to contact us if you have any questions.

We have posted the Federal Register Notice of Intent on our website, which is here.

We will also put the Draft EIS on the web when that becomes available.

If you would like, you can join our e-mail LISTSERVE at the following website as well.

Hopefully, if you did sign up tonight, you've marked in the box whether or not you'd like to receive a copy of the Draft EIS. We can send you either a CD of that, a hard copy or you can also access it on the web.

So we will be starting our oral public comment here in a few minutes. I'm going to turn it back over to Linda. She will give you some instructions about how that's going to proceed. Thank you. (Applause)

MS. COLBURN: Normally we would call a short break at this point in the evening so that if you needed to get some fresh oxygen you could go outside and do that.

Given the size of the crowd and the number of people who've already expressed an interest in testifying this evening, I'd like to request your indulgence to press forward and begin with testimony so that we can accommodate more speakers, if that's

okay.

So if you do need to leave the room, please don't feel shy about that, but please do so in a way that's least disruptive as possible.

By my rudimentary calculations, I think we have at least 75 interested in testifying. So we'll be out of here at about 2 a.m. (Laughter)

But I suspect we will do better than that.

In the meetings that we've done before we allocated four minutes for each person, and in a few cases people needed more than that. So I'm going to try to be flexible this evening, but I'm also going to ask you to share the oxygen in the room.

It's entirely possible that there are people in the room this evening that have very differing points of view on this subject. That said, I encourage everyone to listen respectfully to each testifier, to refrain from interruptions. That way, the court reporter and the rest of the audience can hear each person's statements clearly and understand them better.

We're not here tonight to agree. We're here to understand the full range of issues that you have on your minds, and no one is going to force anybody to change their mind about anything. So I hope we can tolerate the differences in points of view.

We will go for approximately four minutes.  
But as I said, I'll try to be flexible.

To help in that, (laughter) this will mean you have three minutes left, this will mean you have a couple minutes left and this will mean you have about a minute left. (Laughter)

Okay. So pretend we're hermetically sealed in the room and we have to share the oxygen. So I just want to say to you that if you go on and on, you do so at the expense of others who have just as important messages to share.

That said, try to keep your comments focused on the targeted issue this evening, which is spinner dolphin/human interactions. If you're interested in sonar, that's terrific. I don't want to go off on a tangent that's unrelated to the purpose of this discussion.

It's most appreciated if you have specific recommendations on management alternatives.

And to help again with our court reporter and for the folks who are listening this evening, we'd like it if you could provide your name before you begin your testimony.

I'm going to ask people to come up here to provide your testimony. I'm going to sit here and annoy you, just to let you know how much time has elapsed.

I'm going to call people in sequences so some of you can be sitting over here on the edge so we can progress a little bit more smoothly that way.

So if Jimmy Medieros, Michael Hyson and Kiwina could come up, please. We'll start in just a moment.

We're negotiating the sequence of speakers. The list doesn't agree with the sequence in which people arrived. So just a moment.

The new speaking order, we have Jimmy Medieros, because he's ready here. We'll have Michael Hyson. Then after that, we'll have Lunakanawai Hananio and Alena Kamakakama Kaiokekoa. Sorry.

MR. MEDIEROS: Mahalo. I came here -- my name is Jimmy Medieros, Senior, from Protect (inaudible) Ohana.

I live in Honaunau Bay. I came here to speak out on behalf of the nai'a. Culturally, it is incorrect to be swimming and playing around with the nai'a. To the Hawaiian people in Honaunau Bay -- and I'm sure other Hawaiians are here to let you know about their areas -- it's inappropriate and unacceptable.

This has been going on for hundreds of years, but Hawaiian people would not go out there and interact with the dolphins like they do today.

I never did it my whole life, either.

I know many of you who do it every day.

At the same time, I'm here to say that it's not proper. This is not Jamaica, Florida, different places of the world. In Hawaii, culturally, it's incorrect.

Some of you coming over here with this new thing of swimming with dolphins, you're interfering with how it is for hundreds of years. You're interfering with the nai'a.

It is really hard. I've been advocating for the nai'a for many, many years. Been involved with many of the scientists, you saw all of the names up there, sitting at my house, counting every one of the swimmers. Every so many minutes, documenting, counting every day for months and months and months, seeing how these pods are deteriorating.

How many of you can -- everybody love the nai'a, but it's getting to a point where it's hurting the nai'a. They cannot sleep.

Humans make rules to protect ourselves from ourselves, because if not, with all the people inside their houses, everything like that going to happen. We need rules to protect them. There's too many of us on the planet coming to get these feelings, or whatever people are doing out there,

businesses, all unacceptable culturally.

So it's very, very hard to be a Hawaiian in Honaunau, or anywhere in these islands, and see what is happening. It's hard.

I'm happy that NOAA is finally making some kind of move to do something to help us protect our nai'a. We've got to go further. We've got to go real deal. We've got to make them endangered species. Simple. By 2008, might not have any nai'a.

Why does this work? Endangered Species Act, right now, protect our nai'a right now.

So we need to protect the nai'a. Everybody love the nai'a, leave them alone.

That's it. Just leave them alone.

(Applause)

MR. HYSON: Aloha. I'm Michael Hyson. I'm a Research Director at the Sirius Institute. I've been out here studying dolphins for many years.

I would like to just suggest that what's going on is a first-contact scenario, and one of the reasons there are more and more people wanting to interact with the dolphins is that we are culturally waking up to their sentience and their consciousness.

I certainly agree that we have to do all of this respectfully.

But I also submit this book, the Dolphin in History, by Ashley Montagu and John Lilly, documenting thousands of years of interaction between the dolphins and the whales and humans that has been respectful, sacred and useful.

There are things that happen out there, like people regain their vision, their cerebral palsy gets better. They're depressed, the people get happier. People with autism get better. Therefore, there must be some interactive way that we can both share the ocean together in a respectful way and learn more and more from each other and integrate our two cultures.

And that's what I would prefer, and that's what I advocate.

Star Newland will speak to our proposal zone and sites. Thank you. (Applause)

MS. COLBURN: So Lunakanawai Hananio and then -- will you take the mike?

MS. HANANIO: Aloha kako.

AUDIENCE MEMBERS: Aloha.

MS. HANANIO: (Speaking Hawaiian Language)

My son. He's smart.

Anyway, I don't know if you people ever heard this thing called, Hale O Nai'a (phonetic). If you haven't heard of Hale O Nai'a -- you know, before I go on, I should tell you folks something.

What braddah just said over here is so true. I grew up, that was totally, you leave the nai'a alone. That's not for you. That is common knowledge.

But one of the things that I like to share with you, I don't know if you know, it's called, the Hale O Nai'a.

I like you fellows go down to like the airport. You follow that down to the -- what you call that -- Keahole. Okay. When you go down to Keahole, I like you braddah to look down to the point over there. I like you braddah look where they get all the big kind stones through there.

You braddahs know about that? You braddahs don't know. That place over there is called Hamanamana (phonetic). That place over there is called (Hawaiian Language), that all that comes from the Hale O Nai'a. That's where all that stones come from.

Who you think going and do that? I tell you, for those that don't know.

The construction, never.

Those other people over there, they were the ones who went go damage the Hale O Nai'a.

All that big stones that you see over there was dug up like that, broke up like that, and they went sell the stones.



The Hale O Nai'a is all gone already.

Get one song called, Hale O Nai'a.

I was the guy who went teach them to the people about the Hale O Nai'a, the home of the nai'a.

Before the thing over here, where they show the bay, where all the nai'a going inside there, there's true. The thing go inside the bay over there.

You know, the nai'a tells you the time.

In case you folks never know, that nai'a, when you see the nai'a come up from outside the bay, ah, the Hawaiians say (Speaking Hawaiian Language). They talking about the time is now 10:30, because that is the time that the nai'a going to come out of the Hale O Nai'a. That's how you know.

The same thing with this, they tell you the time. The nai'a tell you the time. The nai'a tell you everything, that's why the old folks don't let you go over there, go harm any of the nai'a.

Because why? You damage the nai'a, they don't want to tell you the time.

They tell you everything. They tell you everything you like know.

But guess what? These fellows over here talking about these laws that they are talking, let me tell you folks about these laws. These laws not

going to happen. You know why these laws not going happen? This bulai.

I tell you fellows, the government is the ones who make that (Speaking Hawaiian Language). They the ones who go and make that big stone, that hill of all the stones over there, was the government who went make them. The government free to do anything they like do to the animals in the ocean. They are free.

You do it. I do it. Hana pa'a. Carry the ball bearing, we go to jail.

They do it. Ah, no worry about them, that's the government. We can do them, no worry about them.

The federal government, the federal government. He, no tell us, brah, we the federal government. We do what we like.

The state government, don't worry, hey, we're friends with Linda. (Laughter) You free.

But the thing not going work, I tell you, that's all bulai. Tell you fellows, I promise you fellows, not going to work.

You know how long I been fighting this thing about the nai'a? Years, I've been fighting this. And guess what? Now, they talking about 2008. How about 3008? (Applause)

MS. COLBURN: Well, in the habit of

familial continuation, our next speaker.

MR. HANANIO: Aloha, you guys.

My name is Lunakanawai Hananio.

I guess we have a lot of people over here.  
Are you folks familiar with the Hawaiian culture?  
Raise your hand. You familiar with the Hawaiian  
culture?

You love the Hawaiian people? Raise your  
hand.

You love Hawaii? Raise your hand.

Right on. At least we get that far.

So I've got some -- you guys had a chance  
to read this flyer, the one that talked about  
proposed actions. So I wanted to just -- I guess  
it's kind of interesting, because it basically says  
that they're looking for two different things. It's  
pretty much identifying closure areas and giving you  
an opportunity to participate in your activities  
during certain times. So I think that's good.

That sounds similar to like how the  
Hawaiians -- you know, they had laws, too. I think  
they still do, but just all depends who follows  
them.

This is one book one lawyer gave me.  
Anybody who know lawyers? I not one.

Anyway, this is one book entitled, Laws of  
the Hawaiian Race. Translation, Laws of the

Constitution and the Laws of the Hawaiian Islands,  
1842. Ooh, I wasn't born then.

Anybody born in 1842? Raise your hand.  
I've got some questions for you.

Okay. Being that, I guess we're going to  
try to use my best translation.

One of the laws they got there says --  
very interesting. It says, if the king went divide  
and take all of the fishing rights, all of them,  
okay, then he divide them three ways; some for me,  
some for the people and some for the landlords, the  
konohiki.

Okay. So if we put back that law, this is  
what happens.

The king only can reserve one species.  
The landlord reserve one species. Us, we go out  
there.

However, because they're managers, if we  
have some adverse impact going on, that manager  
says, okay, hey, people, this area closed.

Easy for patrol now. Stay on the land and  
look, this is the boundary from here to there,  
nobody belong in there. Simple.

Hawaiians, they smart. They make simple  
laws. Everybody understands. It's clear. You go  
in there, you better run.

So, and just an observation from now on.

When the federal government, when they hold meetings like this, public meetings like this, next time what they should do is this, all of you, individually, or if you have similarities, you guys make one hui.

You guys come, make your poster like that, put them up over there. Everybody put up their posters.

Then we start drawing similarities.

Oh, this group do it the same way.

Tonight we would have the laws completed. Simple. Pau already.

Then we would recommend to the government, excuse me, this is what we want, the people. Don't come tell us what you like us do. This is our boat. So just some suggestions. (Applause)

MS. COLBURN: You should add a cover charge, or something.

We have next Amy Gollenberg, Star Newland and Mitch Stauffer, we'll take you in that sequence.

MS. GOLLENBERG: I'm afraid I won't be as entertaining.

Aloha. My name is Amy Gollenberg, and I'm the Education Supervisor for Dolphin Quest Hawaii. I've been in the field of marine education and conservation for over ten years, four of which I've been privileged to spend working with Dolphin Quest and enjoying this island's natural resources.

I'm honored to offer our position on the proposed regulation options for protecting spinner dolphins along our shores.

We, at Dolphin Quest Hawaii, feel that ultimately what would be best is that all forms of pursuit and interactions with wild marine mammals be prohibited in all state and federal waters, in this case, surrounding Hawaii, which is in accordance with the Marine Mammal Protection Act.

We encourage all who admire and respect the wild marine mammals of Hawaii to observe their natural beauty and grace from the NOAA Fisheries recommended minimum distance of 100 yards. We encourage that recommendation become an enforced rule for all wild marine mammals, including spinner dolphins, as it is now the rule for humpback whales and Hawaiian monk seals.

According to the Marine Mammal Protection Act, all marine mammals are protected species.

Dolphin Quest has proven its commitment to education, conservation and research of cetaceans since opening our doors to our community almost 20 years ago. Our company has contributed over two million to research efforts on wild cetaceans alone.

Each year we offer free programming to members of our community, including outreach as schools all across the island. Last year alone we

reached out to over 5,000.

Dolphin Quest teaches about marine conservation in every program we conduct. We are respected members of the Alliance of Marine Mammal Parks and Aquariums and pride ourselves on setting and exceeding high standards, leading by an example of excellence in husbandry care, research, education and conservation programs. We promote respect for all ocean creatures and the environment we all share.

Our co-founders are world-renown marine mammal veterinarian Dr. Jay Sweeney and Dr. Rae Stone. Conservation and global stewardship is one of the company's core values, and we promote a wide range of conservation practices with our partners in our community, especially through our schools.

Dr. Sweeney and Dr. Stone have encouraged us to make this statement based on research we've gathered from our colleagues in the scientific and regulatory communities, including research conducted by the late Dr. Kenneth Norris' last doctorate student, Dr. Jan Ostman-Lind.

As many of you may know, Dr. Norris was affectionately deemed the grandfather of dolphin research, and most of his life's work was with the spinner dolphins of Kealahou Bay.

Dr. Ostman-Lind has found in his initial

studies that spinner dolphins have changed their use of bays along the west coast of the Island of Hawaii. He's finding a direct correlation with spinners spending less time in bays that have heavy boat traffic, especially those that take eco-tourists out to view or swim with wild dolphins.

He's also finding a correlation with increased fracturing of spinner pods in areas where there is increased swim-with-spinner-dolphin activity.

What is equally disconcerting is the potential disturbance by humans of the dolphins' apparent physiological function of rest, as Dr. Johnston has already provided us with information on how active they are all night long with feeding.

I believe that all of us in this room want the same thing for these animals, to thrive as healthy wild populations. Evidence such as this makes it more imperative to respect their much-needed rest time during the day spent in protected bays when spinner dolphins by nature would be resting for their evening feed.

Lisa Van Atta explained the definition of harassment in the Marine Mammal Protection Act, and swimming with wild dolphins clearly causes disruption of behavioral patterns, especially in the case of spinner dolphins.



Simply put, swimming with wild spinner dolphins disturbs their resting behavioral patterns. Dolphin Quest Hawaii supports the position of prohibiting all interaction with wild marine mammals. This can be carried out by taking the recommendation of 100 yards and enforcing it as a rule, not only for wild spinner dolphins, but for all marine mammals under the jurisdiction of the Marine Mammal Protection Act.

We encourage respect of wildlife and advocate NOAA Fisheries Watchable Wildlife Guidelines for all of the unique nature of Hawaii.

I really appreciate you allowing us to make this statement and I thank you for your time.  
(Applause)

MS. NEWLAND: Aloha. Just one thought, though, that except for somehow someone took all of the dolphins initially that showed up in the aquariums, there is a slight confusion in my mind, where would you be except if someone took in some way the free dolphins that you've now bred successfully for generations and made available to educate people through. (Applause)

Of course, this is a huge crowd. And as usual, I was moved to tears to see and feel the hearts of all of us from our so diverse points of view, our so diverse perspectives and ultimately our

longing to do the most right thing, to have in the dolphin way, cetacean way, consensus, to have a group mind about what's the highest, best outcome for all.

Over 20 years ago, 25 years ago -- I'm older than I look -- I had the opportunity to be with some therapist (phonetic) dolphins, we called them, down in Florida. My life was changed profoundly just in seeing them and then when they played ball with me. It just changed me, because of all of the deeper things that it brought forth in me. So for all of these years, 25 years, I've dedicated my life day after day -- anybody who knows me knows that -- to do the best that we can to learn who we are to each other, why we are here now, why they're reaching to me, and the many faces I know here, have reached us in our hearts, to bring us through to a higher place and a different consciousness.

I noticed when my Hawaiian ohana spoke about their cultural interactions with the dolphins, with the nai'a, they have yet to mention the use of the historical and cultural tradition to birth with them in the oceans.

We know this goes back, at least the last recorded one -- actually, I met a man on Oahu who he, himself, was born with the dolphins in Kauai,

his children were born, his grandchildren were born, and even before him they were born with the nai'a.

Our work is a serious institute and is part of our inner species. The Cohort Project (phonetic) is to bring our children into the world together, raise them together, establish communications with each other in a way that our mentor, Dr. John Lilly, who is the father of dolphin modern research, goes back many, many years, and establish effective communications so they can tell us what they want us to know.

I have one minute left.

So we're here to propose something entirely in addition to what you all have suggested, that we establish places where we, the people, can go and learn and be together, raise our children with each other, heal, die together, as my dear friend, Toni Lilly, wanted to see done, that we have a special place, a habitat, a dolphin procreate habitat.

Kind of like that first scene in 2010 where the dolphins swims up in the living room and is part of our life.

We're here to help establish habitats throughout the Hawaiian Islands. In fact, this is part of the Sustainability 2050 Program that I went to their workshop and their conference on Oahu. We

have a standing committee to establish and do what it takes now to create a shared environment for our future, because we know it's going to be very different.

And part of that difference, we feel, is that we open our eyes together and we are going to share this planet in a harmonious way.

Thank you so very much. (Applause)

MS. COLBURN: After Mitch Stauffer, we have Doug Hackett and Trish Regan and Adele Henkel. So if you'd like to come up and have a seat, get ready, please do.

MR. STAUFFER: All right. Good evening.

My name's Mitch Stauffer and I have worked on the ocean off the Kona Coast for most of my life, over 30 years, in different capacities; as a fisherman since I was a teenager. I currently work for a couple of eco-tourism companies. I've covered the whole spectrum, from fishing, to whale watching, snorkeling and scuba diving.

I've talked to the owners of these companies that I've worked for and my contemporaries as well, and I've come up with some -- I'm going to pass some of their information along this evening, and I'll give you my own opinion, okay, that's maybe not quite related.

But they're leaning towards -- on the four

options here, they're leaning towards Option 1, of keeping sort of the status quo and, at the same time, the third alternative, which regulates the human behavior identified.

Okay. Not many of them at all wanted to go to the extreme route of total exclusion. All right.

First of all, I want to thank everyone here, all of you folks, for being here and putting out your ideas. It's a very honorable goal to have the Marine Fisheries try to establish some laws that capture what the kupuna were saying earlier, culturally, you know, how can you do that?

It's a very difficult task. It's maybe nearly impossible.

I know that we were mentioning that the government moved -- Jayne was saying, the government moves slowly, but you want to implement this quickly.

Okay. I have some -- everything you have come with, it opens a Pandora's box of reservations, the questions, it seems endless running through my mind.

Okay. I didn't even know what I was going to say when I got up here tonight.

But I'll tell you this, the government does move slowly, but you want to act on it quickly.

But 2008, if there's mistakes made, if there are certain things that aren't done exactly correctly, how are you going to undo it quickly with the government. I mean, it's a good question.

Thanks for letting us participate.

Just a number of questions off the top of my head. I would recommend that any implementation that's done be ongoing, dynamic, flexible, equal, and considering all people.

Like I said, it's very, very difficult.

They mentioned making improvements to the law. Okay. Or to the 50-yard rule that exists now.

What's an improvement to one person might be detrimental to the other. I mean, how can you tell this?

It's like certain things cross my mind. Talking about the -- all the nai'a up north. I can imagine a young person, one of my children or nieces or nephews, surfing or snorkeling or swimming at Makaula or Makalawena and someone in the future, if the laws get so out of hand, they're going to say, get out of the water.

Or here's a \$100 fine, you were surfing or swimming where the dolphins might rest at the same time as a 747 was taking off right above them.

I mean, I just say, be careful. Be conservative. Go slow.

This is one time government is slow, go slow going in, leave yourself out to get out. That's about it. (Applause)

MS. COLBURN: After Doug Hackett, Regan was signed up, but she's yielding her time. Adele Henkel.

MS. HENKEL: I yield that time. Adele Henkel will yield.

MS. COLBURN: Is there a friendly resolution from South Carolina? (Laughter)

After that, then, if Adele is also generously contributing her time, the next speaker after that will be Kiwina, followed by Nancy Emery.

MR. HACKETT: Aloha. Good evening.

My name is Doug Hackett. We've been here on the island for 12 years now. When we first came, very honestly, we came here to be with the dolphins. We had a real calling.

When we showed up we were very, very interested in learning about the Hawaiian culture and the Hawaiian traditions. So one of the first things I did was I signed up for a lecture by Kahuna Lanakila Bryant about the Hawaiian aumakuas, because I wanted to learn about the aumakua.

In particular, I was most interested in how the nai'a, the dolphins, fit into the Hawaiian -  
- traditional Hawaiian culture.

To my great surprise, he didn't address the nai'a at all in talking about any of the aumakua. So after the meeting I was very, very interested, and I asked him, what about the nai'a, you know, what about the dolphins.

He said, they're not an aumakua, they are not one of the Hawaiian aumakua.

I said, well, how could that be when they seem to be a very important part.

He said, well, they showed up a little later. They just weren't included. They weren't part of the Hawaiian tradition.

I was very surprised about that. So I said, well, what do you feel about us swimming with the dolphins.

He said, well, it's your choice. I personally don't recommend it, he says, but it's your choice.

So I'm here because I believe the dolphins have a lot to teach us, and we have a lot to learn. The one thing that they are here to teach us about is peaceful coexistence.

We, as humans, don't have a very good history on the planet of peaceful coexistence. Look at all of the wars that have raged on this planet. Look at all of the controversy here about dolphins.

The interesting thing, to me, is that



there is a big effort for an environmental impact statement about swimming with dolphins.

Well, what about the real dangers that the dolphins experience? If the intent, really, is to protect the dolphins and the whales, then why isn't there being an environmental impact study -- why isn't all of this money and effort being put into the real dangers, meaning the sound, the sonar, the toxins (applause), the heavy metals?

Why all of this time and effort put in on swimming with dolphins? My god.

We were turned in one time for harassing dolphins. So a ranger showed up.

In fact, it could have been our friend, Steve here, that turned us in.

A ranger showed up, he questioned us. We explained to him what we were doing.

He said, well, that certainly isn't harassment.

And I said, do you honestly think that any human swimmer could harass a dolphin.

He said, well, very honestly, we know that it's impossible for any human swimmer to harass any marine mammal.

The fact is that the dolphins can swim 30 to 60 miles an hour. They dive 600 feet or more. They flip their tails and they fly themselves into

the air. The fact of the matter is that it's our human ego that says that we swim with dolphins. The fact is they swim with us, if they choose to.

(Applause)

And if they don't choose to, there is nothing we can do about it.

We've been out in the bays -- I've literally swam with the dolphins thousands of times in the 12 years I've been here. There are days when the dolphins do not choose to be close to any human. It doesn't matter where you are in the bay. It doesn't matter what you try to do. There's nothing you can do to be close to the dolphin if they don't choose to be close to you.

This notion of hurting dolphins is the most ridiculous thing I've ever heard of.

How egocentric is it for us to think that our human presence in the water, that our simple presence in the water, could keep the dolphins from doing anything they choose to do, including sleep.

Which raises another issue. The dolphins don't sleep the same way we do. They have to worry about being underwater 99 percent of the time. Consequently, they turn off half of their brain and that half goes into sleep mode. The other half stays consciously aware so they can take care of breathing and watching out for danger and everything

else they do. And then they switch.

So even when they're sleeping, they still have half of their brain that is conscious and aware.

So the bottom line is, what is wrong with this picture when the only permit that we can get is to kill a dolphin or whale in the name of research?

What's wrong with the picture when we can't get a permit to swim with the dolphins and then the research can find out what it is we can learn from the dolphins?

Because clearly the dolphins have a lot to teach us.

In conclusion here, I brought several copies of the book for the staff here. It's called, Kinship With All Life by J. Allen Boone. It's a book that's written back in 1954, that's 52 years ago. It's still in print. It says, 28th Edition, which says a lot for its content.

It's about the things that we can learn from the animals. So I invited the staff to read this.

In fact, let me elevate it to a --

AUDIENCE MEMBER: Time.

AUDIENCE MEMBER: Pau.

MS. COLBURN: I'll do that for you.

MR. HACKETT: I'll elevate it to a

challenge for them to read the first three pages,  
because I can guarantee that they will never look at  
another animal the same way after reading this.

Thank you very much. (Applause)

MS. COLBURN: After Kiwina, we have Nancy  
Emery and then Maggie Corner -- Conner, I'm sorry.  
Maggie Conner. Then Damien and Glendiera Kenison.

MR. SOTO-AMUNDSON: I probably was the one  
that turned him in.

Aloha. My name is Kiwina, aka Stephen  
Soto-Amundson. I'm representing a group of  
individuals from both the Hawaiian Islands and from  
around the world. We're known as the Malama I Na  
Nai'a, or Caring for the Dolphins.

Our following recommendations are based on  
our experiences with the Hawaiian spinner dolphins  
that have led us to doing legally whatever it takes  
to protect and preserve their existence here in  
Hawaii.

Number one, no government-sponsored SWWD  
Programs in Hawaii. SWWD stands for Swimming With  
Wild Dolphins.

The federal government does sponsor these  
off the Coast of Florida, but we in Hawaiian waters  
don't have the species dolphins -- unless you want  
to take them out and let people swim with oceanic  
white-tips -- we don't have the species of dolphins

that would accommodate and thrive in this human interaction program.

Number two, decommercialize the swimming-with-spinner-dolphins industry in the State of Hawaii. All direct internet sites, brochures, vacation rental or workshops that use any wording of 'swim with dolphins' should be stopped. Cease and desist letters should be generated and penalties imposed when and if marketing or advertising continues. Just completely ban all marketing and advertising of this activity. (Applause)

Not all things in Hawaii are for sale.

Number three, for a period of time until spinner dolphin populations appear again, we need to immediately implement a law that will give spinners a period of time during the day which they can receive undisturbed rest. We suggest going with the evidence that would create a 10:00 to 2:00 kapu time in which it would be illegal to approach them in any way that would be deemed intentional.

Kayaks, motorized vessels, even swimmers who intentionally go out into the spinners ecological profile of resting habitat would be illegal.

We then as a state would receive assistance from the feds in putting together signs at the more well-known and popular resting bays

stating the 10:00 to 2:00 kapu law and how it applies.

Number four, we highly recommend that the feds financially support the State of Hawaii in the areas of enforcement, educational outreach and to assist the State of Hawaii in joint efforts with the Hawaii Tourism Authority and other state agencies in embracing the spinner dolphin as a symbol of Hawaiian aloha, joy and togetherness. Examples include shore-based viewings, posters and videos.

Number five, last and surely not least, we need to convince the feds to allow for and call for in developing this new law an honorable solicitation of kanaka maoli and other Hawaiian residents onto their panel persons that would be assigned to create and writing these new laws into existence. This should be mandatory as the federal persons have openly admitted they are not the experts.

With this being said, we are hopeful for a rule, law or resolution that would implement these recommendations that we whole-heartedly believe that they are scientifically and culturally sound and offer the best chance for enforcement and long-range ecological and economical sustainability of being in a position of receiving the gifts of the spinner dolphin's choice to live in and around the Hawaiian Islands.

As I said, we are dedicated to the preservation and protection of the spinner dolphins. We strongly believe that currently there are many violations of the MMPA by a number of eco-tourism companies. I have eco-terrorists, but I'm not sure I can use that word publicly.

We're also very embarrassed that culturally rich grounds, such as these of the King Kamehameha Hotel and those at the Keauhou Sheraton, continue to host seminars and conferences for those individuals and companies -- companies, dollar-making companies -- that offer seminars and that offer commercial dolphin swims. We ask that you express your concerns to them directly.

So just to let it out of the bag, companies such as dolphin.del.com, Sunlight on Water, Joan Ocean Seminar, (inaudible) Spirit, Awakenings in Paradise, Big Island Divers, Kona (inaudible), Captain (inaudible) and all the rest of you who seek out the spinners during the mid part of the day for your paying customers, we will continue to monitor, film and record violations to the federal government in hopes that one day soon they will pursue you for a prosecutable offense.

(Applause)

If the spinner dolphins are left unprotected from the negative impacts of humans, we

are then prepared and we have prepared and are in a position with data, video evidence and testimonies from around the world, we are prepared to sue the National Marine Fisheries Service for dereliction of said duty under the MMPA and neglect and failure to respond to many of the reported violations in the past seven years and liable for the loss in numbers of spinner dolphins reported by their own sponsored NOAA research and data.

We hope this never comes to be, as all that is being asked here is to leave the spinner dolphins alone and to have those who financially gain from imposing their will on them to find some other way to live here in Hawaii.

We know it's possible if you look inside.  
Mahalo. (Applause) (Cheers)

AUDIENCE MEMBER: Take your sign with you.

MS. COLBURN: Is Doy Farwell doing okay?  
Or do you have the inset of carpal tunnel?  
(Laughter)

We have Nancy Emery. Maggie Conner, you're up next. Damien and Glendiera Kenison or Karison will be next.

MS. EMERY: So mine is very short, although I would like to say that I have seen certain people that profess never to swim with dolphins to be out swimming with dolphins.



So there are certain people that are pulled out and pointed out, but, you know, I will only say that.

I've been swimming with dolphins for many years. I was drawn to them when I learned about healing with the dolphins.

I've worked with semi-captive dolphins in the Bahamas doing healing work. As you know, they're very intelligent and communicate on a telepathic level, as well as other ways of communication.

The spinner dolphins are very intelligent and are able to move quickly or swim in deeper waters if they choose not to be with swimmers.

What kills and interferes with dolphins are pollution in the water, such as plastic, fishing lines, nets and noise pollution, such as sonar.

I have experienced the dolphins swimming in Honaunau Bay move from the regular swimmers in the deep waters, swim over to the swimmers who are swimming with the little noodles and jump around them and play with them for just a moment, and then come back and swim with regular swimmers.

That is not a behavior that I would expect if they were being harassed, but of an intelligent species that can pick and choose what they wish to do and who they wish to interact with.

Oftentimes, I swim out in the bay all by myself and they come around me. I'm not harassing them. I'm sorry. I'm just swimming and they enjoy swimming with me. Thank you. (Applause)

MS. CONNOR: Thank you, everyone, for being here tonight.

My name is Maggie Connor. I am not local. I'm not a kamaaina. I am from the mainland.

I actually flew in yesterday from the Coast of Maine. I also work in Colorado.

I say this because, actually, for 15 years I've been a visitor to your islands. As a visitor, you know, I observe things differently from the people that are living here, obviously, day to day, week to week and month to month.

But as a visitor, as someone who comes as a student, I come to learn about the culture. I come typically two times a year. I've been increasing that over the last three years up to three and four times a year, anywhere from two weeks to two months at a time.

Again, really, my interest in coming is as a student and as a student of the Hawaii culture.

One of the experiences that I do look forward to time and time again is to just actually be able to see the nai'a, to hear them and to just know that they're here.

Many years ago, probably like many of you've had this experience, I was swimming in Kealakekua and I was fortunate enough to be amongst at least three pods of well over 100 dolphins per pod, maybe upwards of 150. I'm talking 15 years ago now.

I learned through education that the dolphins did have a particular resting period and that it was best to go in the early morning hours.

I'm one of those people, I'm really here for the culture so I don't drive around from bay to bay looking for them. If I'm in the water and they happen to be there, I got lucky.

But, again, I do swim in the early morning hours in the hopes of seeing them.

Over these years countless times I've personally witnessed people chasing dolphins. I mean, I've witnessed it either by swimming with them, in a kayak, in a motorized boat, and literally chasing these dolphins from the bays of both Kealakekua and Hookena.

Indeed, I've also witnessed, sadly, the decline in numbers.

I count myself fortunate, even on a visit for as long as possibly as a month, to even be able to see them just from the shore. These pods, if you were here 15 years ago -- and I know some of you are

born and raised here. Uncle Alena was telling me, you know, what's this word pods. I never even heard of pods. With us, the dolphins numbered in the thousands.

I mean, can you imagine? In the thousands.

So, you know, for me, in coming back and coming back -- really, my love is here, my passion is here -- it's tremendously disturbing to someone who just comes and observes.

I'm here, again, tonight in a very unique situation. I'm not a tour guide operator. I'm not somebody who takes people out swimming with the dolphins and make my living from that.

I'm not a Hawaiian cultural person that watches all of this frenzy around these beautiful mammals.

But I do believe that this is very disturbing and it speaks volumes to me the state of affairs in Hawaii and throughout all of the islands, and not just with the nai'a, but just what's happening here.

You know, Hawaii is under siege. You all know that.

The dolphins are under siege. The numbers tell the story. You know, 15 years is a blip.

So we, as a species, have great power over

the planet and all of the creatures, and with that power comes responsibility. I believe it's time to take responsibility. Let's protect the dolphins from being loved to death. We all can agree with that. At least agree on that. So let's protect them from loving them to death. (Applause)

Wouldn't it be great in the future, if we're lucky enough to all be here in the future, wouldn't it be great to look back and say, remember when the pods were 30, 40 and now they are back and they're 100 or 150.

And wouldn't it be great in 25 years that maybe we could get them up to a thousand again, and say, you know, that we took a stand, we protected them.

AUDIENCE MEMBERS: Pau.

MS. CONNOR: I have 110 names from the Mainland of people that agree that they need protection and they need it now, not in 2007. (Applause) Mahalo.

MS. COLBURN: Damien and Glendiera Kenison, to be followed by Angelina Whitecliff and then Bob Smith and Michael Salla.

MR. KENISON: My name is Damien Kenison, Hookena Beach.

I speak for my wife and her family, the Kalina Alani Ohana (phonetic), who have lived here

for generations, who have fished there and lived off the land and who never once bothered the nai'a. Not once.

But it seems -- it really amazes me how all of a sudden we have lay people who suddenly know more than other marine biologists who testified earlier. I don't know where they got their degree from.

You know, one man said, we have been in contact with them for thousands of years, and look what we've done to them. You know, I wouldn't be proud of that relationship if I were you.

What about the laws we have now?

The laws are not harassing a dolphin.

But who's enforcing those laws? I, myself, have seen people chasing them, hanging on to their fin and just pursuing them until they leave the bay. I don't think that's very good ethical practice if you really love the dolphin. Respect them.

When you prove to me you can communicate with them and they tell you that you're not bothering them, then maybe I believe you.

But you know, I have friends who swim with dolphins. I respect their belief and I hope they respect mine.

You know, when I go picnic and go to

Hookena Beach with my family, and I'm having a good time, then I see 20 people with the little rubber things, going out, chasing the dolphins, putting on the fins and mask and snorkel, I get sick to my stomach. That's very mahaoi. Very rude. You intrude upon other people's privacy.

If you consider the nai'a as people, then that's what you're doing.

You talk about going into your house and if you find me in your bedroom, how would you like that? (Laughter) I'm laying on the bed, and you want to have an intimate moment with your wife, how would you feel?

If you guys can tell me that you don't mind, maybe I believe you.

The plantations all closed down. Thousands of workers out of jobs. They all come. They all went to find new jobs.

That's what a lot of you are going to have to do. Leave the dolphin alone. Stop exploiting them. Stop making money off them and disrespecting our culture and their privacy.

AUDIENCE MEMBER: Yeah.

MR. KENISON: And what is this, 50 yards distance? Okay. She's maybe about 20-something yards away from me. So that whole area is her area. So I got to stay 50 yards from her area. Not away

from them.

Because you cannot say they are going to stay in one place all of the time. So how you can set a distance of 50 yards of staying away from them? That don't make sense. Stupid, hey?

Best to have one zone where they can rest. Give them a zone and have some restrictions that allow certain things to go on, with the community input, not the government. The government got to go to the community and find out what they want.

Thank you. (Applause)

MS. COLBURN: Is Angelina Whitecliff here? Then, Bob Smith, would you like to have a seat? Then Michael Salla.

Let the record reflect that Doy Farwell, the court recorder, was used as a point of reference in this dialogue. (Laughter)

MS. WHITECLIFF: Hi. My name is Angelika Whitecliff.

Back in 1998 I had a remarkable experience. I was sitting and meditating in my home in Berkeley, California and during this meditation cetaceans came into my awareness.

Now, I'd worked for over 20 years as an intuitive communicator, helping people to connect with their guides, to their angels, and to facilitate healings for people who have physical



illnesses, emotional and spiritual illnesses.

So when this experience happened to me, of the dolphins coming into my awareness and starting to talk to me and tell me that it was my time to come and swim with them, I was quite surprised.

I had certainly read books about dolphins, but I had never thought about actually going to the water to be with them. But they called me.

And it took me over a year and a half to finally arrange a situation where I could come to Hawaii, and I went out to actually swim in the water with them.

In that experience that happened when they communicated with me, they told me that I would have a certain experience with them when I finally entered the water.

Lo and behold, that's what happened, exactly what they told me a year and a half previous is what I had happen in the water. I have been swimming with them ever since.

They have transformed my life. They gave me so much information on a multi-dimensional level, and they're helping people to raise consciousness.

I've been here on the island now for two and a half years, and I have literally met hundreds of people who have shared a similar experience to what I have experienced. The dolphins have come to

people across the U.S. and across the globe calling them to come to swim.

Why? Because they have something to teach us. They want to help us to become the stewards of the planet that we are meant to be. They want to help us to raise consciousness and be more.

Their brains are a little bigger than ours. Their communication abilities are not even understood by our scientists yet.

But we're starting to understand and inter-species communicators are starting to come up as a profession to help to show the way.

They're calling people to come and swim.

I've had an experience where they came up eye-to-eye with me and they opened my heart in a way that nothing in my life has ever opened my heart like that before, and they are doing that for people and people are going back home and they're not only loving themselves more, but they're loving life and all species on the planet more.

These beings, these cetaceans, are helping to wake us up. We have to embrace this opportunity with the utmost respect and care.

But we cannot let this opportunity be taken away. Too much is at stake right now. The planet is going through major changes.

They are here to help us. Let us work

together to find a respectful solution that we can still swim eye-to-eye and be with them, but in a way that allows them their peace and their lives. Thank you. (Applause)

MS. COLBURN: We have next Bob Smith, followed by Michael Salla and then Linda Dohemann and Mark Chesler.

Bob Smith, please. He yielded his minutes to the next speaker.

By the way, if you're interested, we are one-fifth, or twenty percent, of the way through the list. So mahalo to Bob.

Next up, Michael Salla, followed by Linda Dohemann and Mark Chesler.

MR. SALLA: Aloha.

I was very touched to hear some of the representatives from the Hawaiian community. I don't know too much about the Hawaiian culture so it was very good to hear what they had to say about their attitudes towards the dolphins.

I've worked with indigenous communities in different parts of the world; Australia, Sri Lanka, East Timor. So I well know indigenous communities often do represent cultures that go back many centuries.

But I also know that indigenous communities are not uniform. They have many diverse

opinions in them. We heard from Doug Hackett that some indigenous Hawaiian community leaders do have very different attitudes toward swimming with dolphins.

But I don't want to look at the cultural arguments whether it's right to swim with dolphins or not.

I just want to look at some of the scientific arguments that were raised in the Federal Register Notice that many of us received at very late notice about the meeting tonight.

They referred to two studies.

One was a study at Makua Beach on Oahu in 1995, which was published last year, 2005. That was a study that occurred over two months and that reached a particular conclusion concerning the shorter diving periods and the compressed resting behavior of dolphins as a result of the swimmers interacting with dolphins there in the bay.

That is used in the Federal Register report as an indication that swimmers are somehow endangering the dolphins. Well, unfortunately, that is not an accurate reflection of that scientific paper.

Having worked as a political scientist, I know that papers can be interpreted in many different ways. I think what we're seeing tonight

is that there is a particular spin put on a lot of the science that is being presented prefacing us towards the idea that somehow humans swimming with dolphins endanger them.

That is not what the scientific papers have said.

For example, in that paper by Danil that was quoted in the Register, it said that the lack of discernible data on resting cycles of the Makua Beach dolphins was something that made it difficult for them to reach their conclusions.

Finally, what that report said was that although the current study provides some evidence of potential adverse effects of swimmers on resting spinner dolphins, its findings are by no means conclusive. So this is the chief study used in the Federal Register.

He is saying the findings are by no means conclusive. So why are we here?

It says something quite important also.

It says, other factors such as underwater noise -- and we know that many have been talking about the effect of sonar, hydroacoustic sonar, on dolphins.

Well, this study was conducted in 1995 and published last year. Of course, then it was referring to underwater noise as a factor that

needed to be looked at.

That is the one paper.

Then the other paper -- there were two papers that were referenced in the Federal Register that we were notified about for this meeting.

The second was a study conducted in Western Australia in 2006 that was with bottlenose dolphins. Basically, the Federal Register reported that NOAA was focusing on the conclusion that the exposure to tour operations with wild dolphins would be something that would be detrimental.

Again, this overlooked other parts of the report. So when they only focus on one aspect, you can overlook some other very important positions taken by the authors. One of those positions was that -- okay. In the absence of additional information, the moderated behavioral responses of impact-site dolphins probably would be interpreted to mean that long-term vessel activity within a region of tourism had no detrimental effect on resident dolphins. So the second report was basically saying that there was some evidence that there was no detrimental effect on resident dolphins with tour operations. So that second report -- (applause) also was not conclusive.

So even after two major studies that are referenced in the NOAA Federal Register report for

tonight is basically saying that dolphins are endangered by human swimmers. But if you look at the articles -- and the articles you can read, you can download them -- they're not conclusive. So the science does not support this idea that human swimmers endanger dolphins.

So, in conclusion, what I would say is that in deference to those who do have very strong cultural arguments, that we need to work together, we need to look at ways to acknowledge our diversity on this issue and look at some sort of public outreach program, public education, so that we can all be aware of the issues and work together so that we can protect the dolphins. (Applause)

MS. COLBURN: Next we have a mass exodus, followed by Linda Dohemann, Mark Chesler, Andrew Barfoot. I'm interested in how Andrew's last name came into being.

Is Linda Dohemann present?

AUDIENCE MEMBER: She had to leave.

MS. COLBURN: She did leave. All right.

May I suggest, if you have to leave, if this is not your thing and you're not thriving on this dialogue, feel free to submit your written testimony before you go to ensure that it becomes part of the record of this meeting.

How about Mark Chesler?

AUDIENCE MEMBER: He's gone.

MS. COLBURN: Okay. Andrew Barfoot.

MR. BARFOOT: I yield.

MS. COLBURN: He's yielding. Excellent.

Thank you. No, no, there's no trading minutes.

(Short time of people speaking at the same time)

MS. COLBURN: Ray Kalman.

MR. KALMAN: I'll yield.

MS. COLBURN: Yield. Excellent. Thank you.

It's not that we don't want to hear from you, it's just that I appreciate your cooperative spirit.

Doris Dokos-Loewenthal.

MS. DOKOS-LOEWENTHAL: I guess I'll talk.

I actually signed up for the time because I thought it was question-and-answer. I had a lot of questions.

This is kind of difficult for me. I kind of agree with everybody. Every way that you stated that was killing the dolphins, toxins, noise, human presence, swimming interference, I agree.

The mere presence can bother them because there are too many of us.

The toxins will poison them because there's too many of us.



The noise will affect them because there's too many of us.

We've done this to lions, to tigers, to elephants, to pandas, interrupted habitat, interrupted migratory patterns. We've done nothing but kill the way of life of so many beautiful creatures, and this is another one we are adding to the list.

Mostly, I've heard people up here using the word "I this" and "I that" and "this happening to me" and "I think this" and "I think that" and "what you think isn't referenced" and "what I think" -- and I don't even think there's time anymore for us to stop destroying everything. We just keep talking to each other.

I've spent a year working on ecological stuff. God knows how much gas I've used in the car, and people come by just to discuss these things.

We are the problem.

And I don't know what the solution is because it's just an endless, endless amount of us. So I don't know what to say.

But I think you're parsing it. You're cutting hairs. We're killing everything except ourselves.

But when we've killed enough of everything else, we're going to die, too.

That's all I have to say. (Applause)

MS. COLBURN: Thank you, Doris.

Is DariSann and Michael Ball, are you folks prepared to provide testimony?

Okay, lacking an affirmative, I'm going to move on to Vernon Keawe, who is yielding.

Emily Burt and Myrna Rodriguez -- I'm sorry.

Emily Burt, Myrna Rodriguez, Debra Lerman.

Is Emily gone?

MS. BURT: No, I'm here.

Well, I can't say that I wanted to follow that act. I don't have anything quite that dramatic to say, and I'm afraid there will be a couple I's involved, only because I want you to understand what my background is.

I've been on the island for 17 years. I go to Honaunau Bay 100 times a year, 200 times a year. Mostly I go to paddle or swim. I have swum with the dolphins a time or two.

But -- and I'm afraid I didn't get your name, even though I didn't want to follow you.

I agree that there are too many of us swimming with the dolphins. I choose not to.

I hope that more people will look inside themselves and say, I am part of this problem.

In 17 years the dolphins do not visit

Honaunau Bay maybe one-third the amount of time they did before, maybe thirty percent, maybe only twenty percent of the dolphins that I saw there 17 years ago.

And when they are there, they're not there. You don't see them. You see 50 people, flippers, you know, jumping, screaming.

These are supposed to be wild animals. I don't know how we define wild or how you define wild. But for me, wild has something to do with no interference.

Lately, over the last couple of months I've begun observing. Because -- thanks.

Because a few years ago I realized that I was becoming very angry with the kind of interaction that I was seeing. There was a lot of greed, a lot of neediness from people needing to be with the dolphins in order to achieve some sort of enlightenment.

I decided I need to calm down a little bit about this. So I started observing.

I'm part of the Kula Nai'a Group observing the dolphin/people interaction.

In the time I have been doing this interaction -- or observation, I can tell you that people definitely affect the behavior of these animals.

When there are 50 people in Honaunau Bay trying to interact with the dolphins, whether they choose to interact with you or not, you are affecting their behavior. (Applause)

I hope that NOAA will close half of Honaunau Bay between the hours of sunrise and 4\_o'clock in the afternoon to swimming, to paddling, to whatever human activity. I would like to see at least half of Honaunau Bay empty for dolphins or whatever chooses to swim in there from outside in the ocean.

We need, as a species, to get some control of ourselves and what we think we need versus what we want. (Applause)

MS. COLBURN: Sad commentary on my existence when I get excited that somebody didn't use the whole time. (Laughter)

Verna. Debra. Then after Debra Lerman, Kit Kelly.

MR. KELLY: I'll yield my time, Kit Kelly.

MS. COLBURN: Okay. Is Verna still here?  
Absent confirmation, Debra Lerman.

MS. LERMAN: This is Yoshie, who wrote a paper which I'm going to read because she's afraid you wouldn't understand her English.

I moved to Hawaii in April of 2000 and live in the South Kona area of Kealahou Bay,

Honaunau and Hookena Bay. My name is Yoshie Okitsu and I am Japanese.

The following comments are about my experiences and opinions regarding human interactions with wild Hawaiian spinner dolphins along the South Kona Coastline.

I was introduced to Hawaiian spinner dolphins by a friend at Kealahou Bay in 2001 as they had come into the bay for their daytime resting behavior.

It was at this time that my interest increased and I began to both learn about, study and understand some of their behaviors, their relationship with other dolphins and their close relationship with the Hawaiian culture.

Several kinds of dolphins from all around the world enter into shallow waters or protective bays for feeding. So I was surprised to discover that spinner dolphins would act curious and approach a person if they too were visiting these areas, and I have come to learn that the spinner dolphins come into sandy bottom areas to rest.

In my experience, swimming with Hawaiian spinner dolphins in the Island of Hawaii wasn't really a worldwide marketed eco-tourism market until late 2002. Soon thereafter and in 2003 it became very popular with advertising in mass media,

Japanese guidebooks, personal and company websites and brochures.

During this same time, the numbers of tourists and paid clients that came to swim with the dolphins increased dramatically every year. Examples of this include retreat workshops that highlight and market this activity and wild dolphin tours from Japan.

Most tourists do not know the ecological profile of the Hawaiian spinner dolphin, i.e., why they come close to shore during the daytime, when they feed, et cetera.

It's been my experience in South Kona that spinner dolphins usually enter the bays between sunrise and seven a.m., depending on the season and the weather.

In some cases, on some days, and influenced by different days of the month or months of the year, nearly 50 percent or more of the members of the spinner dolphin pod rest around 8:30 a.m. and nearly all have begun their rest soon after 9:00 a.m.

However, most visitors and tourists arrive near or after 8:00 a.m., and it is a very disturbing sight to watch people swim after, chase or create human corrals in their attempt to gain some closeness or interaction with the spinner dolphins.

There may be other factors involved but, in my opinion and experience, both the frequency of their visit and the size of their pods have decreased in the past three to four years, and I feel it is primarily due to the harassment behavior by humans.

If these harassment behaviors were to be allowed to continue, I believe that the size of the pods will continue to decrease and eventually disappear.

Based on my data, in 2001 the average pod size was over more than 30 dolphins per pod along our South Kona Coastline, and the average in 2006 has dropped to 20 dolphins per pod. There is often 10 dolphins or fewer in a pod that visit these bays.

In my observation experience, there has been only five to six newborns during the primary birthing months of July through September. The probability of their survival through their first year is 20 percent or less.

The spinner dolphins need between two or three years of maturity before they are ready to have their own newborn.

It is both essential and critical that during these months the nursery within the pod gets left undisturbed as the newborns need time and space for development and adequate rest. If the newborns

and other spinner dolphin young do not grow up safely the size of the pod decreases, as they do not live long enough to produce new young into the pod.

I feel we need new regulations or rules that will protect the spinner dolphins from human impact:

One, give the spinner dolphins a period of time each day that they would be undisturbed -- initiate and implement a 9:00 a.m. to 2 p.m. no-go or approach rule or law.

Two, create and reserve a dolphin sanctuary where dolphins can rest undisturbed, do-not-enter zones.

Three, create educational programs for dolphin ecology. Make brochures and videos for introducing dolphin ecology and new rules to the tourists, website, guided kayak tour and dolphin watch tour and schools.

Four, patrol on a regular basis, regulation of against rule.

Five, have meetings at the local level. Continue to talk story with community about federal efforts and the continued education of the spinner dolphins. (Applause)

MS. COLBURN: Thank you, Yoshie, for the sentiments and Debra for helping reading it to the group. If you wish, we can add that to the formal



testimony record.

Is Phillipa Christian in the neighborhood?  
Would you like to come up with, please.

Followed by Linny Vermeuie, Jessica  
Schwarz, Mahealani Kuamo'o-Henry. After that will  
be Michael Yee.

MS. CHRISTIAN: Hello, everyone. My name  
is Phillipa Christian.

I've been living on the Big Island for  
almost seven years. I own and operate a small  
business operating a dolphin swim opportunity for  
visitors to the Big Island.

This is how I make a living here in  
Hawaii.

For me, one of the most important aspects  
of my life was to connect with the spirit through  
the dolphins and whales. For me, it's not about  
money. I left my corporate career to come here. I  
left my corporate salary of six figures to come here  
and to be with the dolphins.

Everyday I witness my guest's experience  
and healing opportunities around the dolphins.

At the end of the day, I really believe  
that we all want the same thing, to care for,  
respect and honor the dolphins.

I would like to see some degree of control  
for the dolphin swim industry. I do support

permitting for all operations who make their living full-time offering dolphins.

I'm originally from New Zealand. In New Zealand, the New Zealand people worked with the authorities together and we produced the guidelines that subsequently became law.

People swim in New Zealand with the dolphins happily and consciously. I believe it would be impossible to enforce a law distance. Dolphins love to play.

In fact, I'll just digress for a moment.

There is one thing that was missing I felt from the presentations earlier today. Certainly, the dolphins rest in that period of time in the morning that people have been referring to.

But they also play. If anyone has witnessed dolphins in the morning, they'll see a lot of spinning behavior. Clearly, the dolphins are not sleeping if they're spinning. So, please, if we can add that to the information that is being presented, as their rest time and also their play time.

So dolphins do love to play and they love to play with the boats and ride the boat bow wave. Any motor vessels cruising along the coast, that could be fishing boats coming home from fishing, it could be pleasure craft, snorkeling tours, swim-with-dolphin motor vessels, they all attract the

dolphins.

Dolphins will always come over to the boats to play in the bow wave and to jump in the wake.

Besides, how far is 50 yards? How far is 100 yards? How on earth are we going to monitor that?

Will all boats be cited for harassing dolphins?

I agree that changes need to be made, and I think that we can allow those of us that swim with dolphins on a regular basis to offer accurate data.

For example, the doctor of cetacean biology stated 3,300 dolphins in the whole Hawaiian chain. But then went on to say, oh, maybe it's actually 3,300 for the Big Island, alone.

Well, that's a huge difference. That's massive.

He also stated that the ships that were monitoring the numbers of dolphins couldn't get close to shore. Well, realistically, that's the only way that we can see the number of dolphins, by counting how many there are around the shores. Because if not, it's impossible for us to tell the numbers. So we really need some accurate data.

I don't know that we can get accurate data on the numbers in one year. Maybe. Maybe not. I

don't know.

But we do need accurate data for rules to be made based upon some information.

I believe there is a way to hear, honor and respect for the dolphins and for us all to be with them in a conscious way.

So I'm not afraid to admit that I swim with dolphins, that I own a company that attracts people to come here and experience what it's like to be with the dolphins.

I think we can do this in a conscious way.  
Thank you. (Applause)

MS. COLBURN: What people really want to know is, did you inhale?

Is Linny here? Linny Veimeuie. Is Linny gone? Since Linny is not here, is Jessica?

AUDIENCE MEMBER: Jessica left.

MS. COLBURN: Jessica left.

Mahealani Kuamo'o-Henry. (Applause)

MS. KUAMO'O-HENRY: Aloha.

AUDIENCE MEMBERS: Aloha.

MS. KUAMO'O-HENRY: Being so conscientious about the time, I'm just simply going to read a letter that I'm submitting and add a few comments to my perspective about our ohana and our practices.

My name again is Mahealani Kuamo'o-Henry.  
And I am kanaka maoli, cultural teacher and Hawaiian

spiritual Kahu-priestess.

I am especially interested in voicing my concerns against proposed regulations that would prevent me, my ohana, family and others, from engaging, interacting and swimming with our ocean ohana, our dolphins, nai'a, who share our homeland of Hawaii nei.

My Hawaiian ancestors and ohana members today freely interact with our ocean aumakua, and yes, they are aumakua to us, guardians and guides, our family, our ocean family.

In reading articles concerning the well-being of these in the flesh ancestral aumakau, I'm concerned that there are instances that threaten their health, and most definitely their well-being, with the U.S. Navy's tenacious pursuit to infiltrate our ocean water homes of our aumakua, and with their deadly sonar testing as well.

I believe NOAA, NOA'A (phonetic), should do all it can to stop these deadly tests from happening. (Applause)

I also believe that the public should be educated as to the protocols for engaging with our ocean ohana. (Applause)

And that the educational means is made an absolute at all levels possible prior to any encounters with our ocean family. I urge NOAA to

utilize their resources to be the leader in developing this educational process. Resolutions for interactions with our dolphins are best served for all through educational measures rather than blatant regulations forbidding interactions with our ohana of the sea. (Applause)

Might we remember that dolphins are highly intelligent creatures, and other than stopping the U.S. Navy from their tests the dolphins do not need man's arrogant assumptions to protect them from the swimming public. (Laughter) (Applause)

The ocean, their bedroom, if you will, is a vast environment, small enough to provide them with the choice to interact with their human family, while large and deep enough to move beyond human contact within a wink of an eye. (Applause)

Our dolphins, others in their ocean environment, are not victims of a closed and restricted environment, as are humans. Nor do they need us to think or speak their thoughts. So in spite of man's own mental, emotional and physical confinements, let it not cause the majority of us to react in fear-based irrationality.

Please know in 1820 there was a huge, huge movement in our Hawaiian landscape. In 1820, from that period on, many of my people had practices that we did prior to 1820. We swam -- yes, we swam --

with our ocean family. They were so much a part of us.

In my ohana alone, my mother comes from the Honu (phonetic) Clan. Absolutely.

And my father with my grandfather, they used to have their canoes. They paddled their canoes and they called on the nai'a. The nai'a was part of our way for fishing as well, and for directing canoes. We are talking even way prior to that time frame.

For those Hawaiians who do not have that kind of moolelo in their ohana today, it is not your fault that you do not have this memory, because in 1820, with the coming of the missionaries, so many of our Hawaiian practices were deleted, were placed aside.

It is only recently here that we now here this in this landscape of Hawaii nei that you see some of our practices now coming back. (Applause)

Please know, please know, that our ocean family, our ocean ohana, our aumakua still live within the hearts and practices of many, such as myself, who have received not only the personal experience but also the moolelo that was passed on from one generation to another that was not banned in certain ohanas, and certainly not in mine.

So with this in mind, I simply ask you

that, yes, we do need, we do need education, we do need to be aware of our family, of the ocean. We do, and I'm sure that every one of us here in this room can agree to that.

We need to aloha, not just each other, although that's a good step to begin with, but also our ocean family through education.

Please, it is not about banning us from interacting with them who choose also -- believe me, they choose to interact with us, they certainly do, and this has always been the moolelo, the practices, within my ohana and many others, until 1820 when many of those practices were left as memories.

So I simply ask you, please, aloha, aloha yourself, aloha our ohana of the ocean, and let's put together in one mind of aloha the kapu, if you will, certain conscious, conscious, means of education for protocol with our, our, ohana from the ocean. Mahalo. (Applause)

MS. COLBURN: Two observations. One, I wish you guys could work up a little enthusiasm. (Laughter)

Number two, I always knew there was an okina in NOAA. So for the record, it's N-O-A, okina, A. (Laughter)

Michael Yee, please.

MR. YEE: Aloha. I'm Michael Yee, and I'm



proud to say I'm the godfather of all of the dolphin swim tour operators. Mahalo.

Anyway, the first boat that did dolphin swims was a boat called the HANAKILO (phonetic), and I ran that boat, as other captains did. But I ended up with the boat.

So, anyway, my wife and I are owners of our own operation now and we still take people out to swim with dolphins.

We've been doing this for about 15 years. I've never had one researcher from NOAA approach us and discuss about our observations with dolphin in Hawaii or dolphin in the wild.

And it seems to me that the research that's done, researchers will come over, they're here for a very short period of time, month or two months, and they're not out on the water or in the water with the dolphin every day like we are. So their observations are very limited and I don't feel very accurate. Okay.

And further, the people who earlier today, some lady who flew in from out of town, to say she's been coming here once or twice a year and she sees less and less dolphin. Well, then come out with me and you'll see a lot of dolphin. Because I saw 200 dolphin today. I see them every day. Most days. So anyway.

What I want to say is what we're seeing is that if you wanted to -- for your EIS, one that is valid, you need to be on the water more, the NOAA folks and the people that are doing the research.

We invite you to come out with us any time and see how we conduct ourselves and the protocols that we have developed over the years to conduct ourselves appropriately when we're in the water with dolphin.

We are opposed to any regulations that would prohibit us from continuing to swim and interact with Hawaiian spinner dolphins. We urge NOAA to work with us in developing an educational system to inform all residents and visitors on proper ways to interact with dolphins. We are volunteering to make ourselves available to assist you in establishing guidelines that will ensure the continued well-being of dolphins, as well as keeping swimming with dolphins available to the many people who come to Hawaii for that experience.

We are asking NOAA to work with us to find a workable solution. Thank you. Thank you. Thank you. (Applause)

MS. COLBURN: Is Jan Ostman here?

MR. OSTMAN: Yep.

MS. COLBURN: Followed by Linda Nadia-Hoomo. Douglas Webster, will be after Linda, and

then Margit Myra Fuchs.

AUDIENCE MEMBER: Did the NOAA people leave?

AUDIENCE MEMBER: Where are the NOAA people?

AUDIENCE MEMBER: Where did the NOAA people go?

MS. LEFORS: Right here.

MR. JOHNSTON: There are two right here.

MR. OSTMAN: Aloha. My name is Jan Ostman-Lind. I'm the president of the Kula Nai'a Foundation. I've been doing research on spinner dolphins on this island since 1989.

I'll read my statement first and see where I am with regard to time.

I'd like to start by saying I applaud the effort of NMFS Protected Resource Division to address the continuing and steady harassment of wild spinner dolphins in Hawaiian waters.

I further commend the release of the statement by the State of Hawaii DLNR in supporting and cooperating with the federal agency in creating better rules for protecting our precious native dolphins.

I would like to respond to the recent proposed action, which is the focus of this meeting.

I feel strongly that much greater action

is needed, specifically in relation to these proposed actions. I would recommend that the rules regarding spinner dolphins should include components of Alternatives 2, 3 and 4.

Specifically, for Alternative 2, we agree that a distance limit is essential. However, it should be set at 100 yards, just like the distance limit for humpback whales.

In fact, it should be for the same for all marine protected species, best to avoid confusion.

The distance is essential and the current rules regarding humpback whales have demonstrated that it is not a hardship and it has not interfered with the vibrant whale watching industry. There are many people employed in the whale watching industry in Hawaii and none of them are capable to swim with whales.

We strongly support Alternative 3 that would create specific rules in reference to boat handling and human behavior in the presence of dolphins.

. We would extend these rules to apply to all waters, not just resting bays, because research shows that certain boat handling behavior, such as j-hooking (phonetic), leap frogging, running doughnuts around the school or driving at high speed through a school to attempt to get dolphins to bow-

ride are all clearly disruptive in any location, for any dolphins.

It is just as clearly harassment to have boats repeatedly j-hook and to have swimmers (inaudible) with spinner dolphins as it would be if the schools were at rest.

We and other observers have witnessed this behavior directed at the spinner dolphins along this coastline on countless occasions.

Finally, we also strongly support Alternative 4. It's essential that critical resting areas be set aside at all times that dolphins are present. We've seen some major problems with the concept of setting aside areas only for certain times of the day. This could easily result in the operators hovering just outside of the resting area until the set time -- for example, 3 p.m. -- only to rush in and drop people into the resting school as soon as the clock strikes the hour.

Instead, resting areas should be set aside for any time period when the dolphins are present. This is common sense, because when dolphins are in these areas they are either descending into rest, resting or coming out of rest, and in all of these states they should be left undisturbed.

There would, of course, need to be modifications to these rules in some areas, such as

harbor entrances, et cetera.

Mostly, I'd like to encourage anyone who feels strongly about better protection of these dolphins to get involved now and not to wait for future rules to be enacted or better enforced.

I do have some extra time here.

There has been a lot of statements made tonight, one of them was an analysis by a political scientist earlier about dolphin research and data, and so on. I think that we have a situation where scientists who study these dolphins from a scientific point of view are limited to the data that they're collecting, and are limited by the information they have at the time, and I think that we need to impose similar restrictions on people that come in with other points of view.

We're trying to show what we're seeing, what we're collecting data on, and try to make this available so people can see similar things when they're out there, and we need to have that be part of what other people are doing in some of these discussions.

I also want to mention that we had some students earlier from West Hawaii Explorations Academy that wanted to make statements, they had observed dolphins at Makako Bay off the airport, and they were not able to stay. Their parents came to

pick them up.

So they wanted to suggest closing the Makako Bay area, and I believe they handed in a statement to that effect.

I will leave my statement. Thank you.  
(Applause)

MR. WEBSTER: Aloha. I'm Douglas Webster.  
I'll keep this brief.

Basically, it's a very subjective impression that we all have when we swim with dolphins, and it's very passionate. I mean, we're people, so we're hearing a lot of passionate points of view.

My own personal experience over the last nine years of sharing this with people in the water is that it has been very exhilarating. People come up with a new respect for the ocean and a new respect for themselves. I would hope that we would get to that level of respect for each other and in the state of aloha.

I'm for education over regulation.

My grandfather had a great saying, he said, that figures don't lie, but liars can figure.

So scientists who want to make their point can use whatever figures they want to make that point. It seems like the government is very intent upon keeping people out of the water with dolphins.

Why? Because they want to keep that separation. They want to keep our focus away from being friendly with a species that we are killing in numbers of over 300,000 a year through our military and industrial complex. Those are the real numbers that are out there, folks.

And this little island that we're here sharing this treasure with is something that we can share with the world with aloha, and I hope we can continue to do that. Thank you. (Applause)

MS. NADIA-HO: Hi. I'm Dr. Linda Nadia-Ho (phonetic), and it's not really my cup of tea to get up and, you know, champion something. But there's too much at stake here, so.

I'm not a dolphin researcher. I'm not a dolphin, you know, troop leader.

I'm someone who came to the island I think in the early '90s after my divorce, desperate for something to touch my heart. So I must admit that for years I came and -- in a very needy state, and I probably -- you know, if I was capable of chasing the dolphins, I would.

And in that state, you know, for the life of me, I never had very much of a dolphin experience. The dolphins wouldn't touch me.

And what did happen, though, was I had the good fortune to mentor with someone who taught me



how to be with the dolphins, just to open my heart.  
And from that time on, the experiences have just  
been huge.

How many of us have swum with the  
dolphins?

How many of us have had our life just  
transformed, our hearts burst open?

How many of us really love the dolphins so  
much that if we knew -- if we thought that what we  
were doing was hurting the dolphins would change our  
behavior in a heartbeat? Shake your head yes.

And how many of us would do anything we  
can to support the dolphins and keep them here?  
Yeah. Same here.

Oh, three minutes, fudge.

So what I did do, about three years ago I  
organized a Pilgrimage for Peace and Healing on  
November, and brought a bunch of people here to the  
dolphins.

And, yeah, this is a double-blind study.

But what happened on that pilgrimage is  
that we had four or five couples with a lifelong  
history of rocky relationships, stormy  
relationships. We actually had the most  
relationship guy in the world.

Well, anyway, you know, I mean out of that  
group of sixteen people, we now have five really

happy couples who had been in therapy, done everything, and this is what worked for them.

At one point -- I want to read to you from a doctor from that pilgrimage. He said, the dolphin pilgrimage was the most healing experience of my life. Swimming amongst the dolphins and feeling their loving and energy beaming at me was a really profound emotional and healing experience. Words cannot express my gratitude.

Swimming with dolphins -- it was far more than just swimming with the dolphins. It was a profound spiritual awakening to the reality of god. I incidently had a liver mass and I am now cancer-free. Thank you.

One minute. Oh, what else?

Oh, with all respect to the Native Hawaiians here, my teacher swimming with the dolphins is a kupuna and he brought me many, many times to the dolphins in the way -- you know, helping me find my heart.

Not pau yet.

What else here?

Yes. Education, for sure. For me, I needed to get educated on how-to the dolphins, and I still need to get educated, because I know if I go out to the bay and I have a really yukky face, the dolphins skedaddle. They go, geez. I know it

sounds egotistical, but it's what happens.

When I go in with a nice face -- oh, pau.

But when I go with a nice face, I will be swimming away, you know, swimming back to shore, and they just keep coming, coming and coming.

The other piece that -- it's not just what -- my sense is some of the dolphins actually need us right now. It's not just -- so my prayer is that -- it's okay?

Okay. Dear god, please help really let go of whatever judgements we have, whatever beliefs we have, whatever outer things we have, to really know in our hearts what will truly help our family of dolphins and our family here and our family in the world.

Okay. Thank you. (Applause)

MS. COLBURN: Just FYI, we're at 30 out of 74.

Margit. After Margit, Fred Rubenfeld and Deborah Roberts, Joan Ocean.

MS. FUCHS: Aloha. My name is Myra.

I want to say my language is not English so I can't entirely express what's in my heart, but I think it has been expressed very well by the Hawaiian priestess. Thank you very much.

What's really important for me is I think I want to thank NOAA, because you want to protect

the dolphins, and so do I from the bottom of my heart.

Yet, what I was missing in their earlier presentation was it was entirely the left side of the brain, and I think we have two sides of the brain.

And what I would like to see is that intuition -- for the scientific approach and intuition join together, and that we work together.

I think we have incredible people here on the island who can communicate with the dolphins telepathically. I suggest that you include them, and I think we all will be amazed, and I really hope that we can find solutions together and that science and intuition finally, finally, finally come together and that our brains work in unity.

I really pray for that, and that we're not separate anymore.

I communicate with the dolphins telepathically. And what they tell me is that we are family, we all come from the same source.

And what they are doing in the ocean, we are doing on the lands, and I think we are magnets. So why do our hearts open so much when we see them, because we know and we remember we are family.

And I think the dolphins are one polar of the magnet, and we are the other and we want to be

together. Like same thing, let's connect our brain.

For me, the question is not only what can we gain from them, because there has been a lot of talk about they are healing us -- and yes, they do heal us, but what can we bring to them as well.

When we go out there, or even when we sit on the beach, what can we bring to them.

I think we have a lot to bring to them as well. I don't want to be stop what I can bring to the dolphins and the dolphins bring to me.

I honestly think that when we talk about harassment, the dolphins have harassed me. I've had dolphins swimming after me.

I said, I can't swim with you anymore because I haven't had breakfast, it's four hours, my blood sugar is really low, I have to get out of the water. And I did it, and they swam out with me. They were escorting me to the beach. They were harassing me, too.

But I don't feel it's a harassment. I think it's a blessing.

I really think that when dolphins and humans can come together in unity, that is a blessing.

I also think that if you, NOAA, can come together with people who work with the dolphins telepathically, that can be a blessing.

So let's bless each other. Thank you.

(Applause)

MS. COLBURN: Is Fred still here?

MR. RUBENFELD: I'm going to pass my time.

MS. COLBURN: Well, I'm sure a lot of people appreciate that, Fred. So thank you.

Deborah Roberts. Deborah Roberts going twice.

Joan Ocean. (Applause)

MS. OCEAN: Thank you, Chris. Thank you for calling this gathering and this opportunity to be together.

Oh, there's a lot less people here now.

My name is Joan Ocean. I've been living on this island for 19 years, and before that living in California. I've been conducting research of dolphins for 23 years now.

When I thought about this gathering, I thought, what can I do to help, what can I contribute.

What I have that I can contribute is that from living for twelve years right on Kealakekua Bay, right next to the fishermen's house next door to Bob Lesley's (phonetic) house and being with the dolphins every day for twelve years, for four or five hours a day, I've kept extensive research notes, journals about everything that happened. I

kept it all in writing for the first six years. So I have six years' worth of information that says exactly how many dolphins came into the bay each day, what time they came, when they left, what their behavior was.

I would like to offer that so that you can look at that and relate to it and compare it to what you're seeing now.

I get a little concerned sometimes, because I know that -- as you know -- that back in 1988, that was when they found out about all of the dolphins being killed in the nets. I have a friend, Dr. Noll Brown (phonetic), who was the Environmental Director of the United Nations, he found out about that in that year and moved into action and got out on television to stop and to put forward laws to prevent the dolphins from being killed in the nets.

Now, that's where millions of dolphins were killed, literally. Huge numbers.

So, of course, there seemed to be less in the bay after that.

You can compare the numbers with the fine reports done by Dr. Ken Norris, who lived in the same house that I lived in a decade before me. I have his full report of the numbers of the dolphins in Kealakekua Bay.

So I'd like to offer that.

I thought today we had to bring ten sheets. I just had the time today to draw up one year's worth of all of the numbers of the dolphins, and I'm happy to do it for all of the other years also. So I have that here to give to the committee and to the fine people here making their decision.

I also wanted to say, I really am a scientist. My degrees are in science. I come from that place. But I also have to say that the dolphins called me. They called me to be with them, as they have called so many people. It's a good thing.

I really hope and I really believe that we can work out a win-win situation, because we all want to do what's best for the dolphins. We love them so much, truly, and in a good way. We don't want to have extra people there.

You know, I've traveled all over the world and been with dolphins and whales all over. Here, it's so unique, on the Big Island, in particular, where the captains cooperate, where the people are careful and mindful. We have such a good program going here, something that we can share with the rest of the world.

So instead of putting it down and not understanding it, let's work together and see what we can do. It's really something beautiful.



Anyway, I just wanted to offer that.

Again, I'm happy to bring forward any of my information, that was from the years 1990 to 1996 that I recorded it all, and then there were another six years when I lived there but I didn't keep notes anymore.

Okay. Well, thank you very much.

(Applause)

MS. COLBURN: David Shoap. Gilda Montenegro-Fix, Dave Jensen and Teresa Collins. Are any of you here?

MS. COLLINS: I am, but I'm going to pass. Teresa Collins.

MS. COLBURN: Is Dave Jensen here?

Is Gilda here?

Is David Shoap here?

Is Marshall Lefferts here?

MR. LEFFERTS: Yes.

MS. COLBURN: Doy Farwell, are you doing all right?

After Marshall Lefferts, we have Jeff and Teri Leicher, Crystal Jones and Marie Burns.

MR. LEFFERTS: Hi, my name is Marshall.

Thanks, everybody, for coming. Thanks for NOAA for inviting us here to talk about this very sensitive and important issue.

There have been lots of comments made.

I'm just going to touch on a few.

First of all, the decline of numbers of dolphins, I don't know the numbers myself, but what I do know is that this issue is so much bigger than the small level that we're looking at in the world. If you don't know, there's an extinction crisis on this planet.

The rate of extinction of species on this planet is a hundred to a thousand times greater than the natural background extinction rate that's existed for 65 million years, and that's due to human impacts everywhere.

So whether or not the impact of swimming or tour operators, whatever it may be, that's local to these waters is the cause, there are far more and greater causes in play here. So I really encourage the people at NOAA and other organizations to be willing to look at the larger systemic factors that play, such as sonar, such as Super Ferry, without any environmental impact report being required, and other kinds of larger systemic factors that I think are relevant to this conversation, and I don't see them as beyond the scope.

I think they're actually part of the scope here.

I also have observed -- I swim with dolphins, I think for just about a year and a half,

a little over. I swim with the dolphins in Kealakekua and Honaunau and Hookena Bays. So I'm observing, kind of from my perspective what's going on here and the potential for impact from human behaviors.

And I do feel that, in my limited perspective, there is an increasing number of people and boats and activities coming into the bay.

Just last week there were four boats in Honaunau Bay, and probably -- I don't know how many people out with the noodles that means, but there were probably 50 people out in the bay.

The dolphins came in. Everybody rushed over there. There's somebody out there swimming their tail off, chasing them. I went chasing after that person and grabbed him and stopped him and I said, don't do that, these dolphins are sleeping.

He said, oh, you think so.

I said, I know so.

So it's really important that -- I feel it's equally important as looking at the systemic higher level problems, including those in this assessment, that we also, as people have said, focus on educational efforts, because being informed, whether we're locals, whether we're Hawaiians, whether we're coming from afar, being informed is going to be one of the key factors to finding a

balance with this issue and being able to allow for the humans to continue to interact with our brothers and sisters on this planet.

When we talk about these being wild creatures, we think we're not that as well.

We are different in that we can sit here in these rooms and have these conversations and get angry and get passionate, and all that. Ultimately, we're not that different.

When we get into the water with these very sentient beings, we can feel that.

I encourage also the people who are -- take the scientists and the organizations who are assessing the situation, to -- if they haven't done so already, to dare them to get in the water and experience being with the dolphins enough times so you get at least a sense of what that means.

Because it is something very special and unique.

I also feel that, on the other side of the equation, there are activities and there are numbers that are impacting the behavior and the well-being of the dolphins that should be considered.

I don't have recommendations beyond that, as to which of these approaches would be best. But, nonetheless, I think it's very valuable to have this conversation and I appreciate everybody's

participation. Thank you. (Applause)

MS. COLBURN: Jeff, are you here?

Crystal is gone.

MR. LEICHER: Jeff and Teri, in the interest of not interfering with anybody's rest period, I'm going to e-mail my comments. (Laughter)

MS. BURNS: Hi. My name is Marie Burns and I was born at home about two miles as the bird flies above Honaunau, and I love that bay.

Anyway, so I would like to start by stating that -- I don't need a microphone.

MS. COLBURN: We want a full record --

MS. BURNS: Okay. So for the full record, I will use the microphone.

I would like to thank NOAA for putting this on, and I would like to say that you guys need to establish very strict laws. We need enforcement, starting by tonight. We need to -- by perhaps enforcing the current laws, and all of you have admitted on tape to violating the current laws, you guys should be cited tonight. You guys are out of control.

So I support all of NOAA's proposals. NOAA needs to cite everyone.

I would like to ask -- I've heard so many crazy things that you people do. Amon (phonetic), tell me if you have admit to having sex with the

dolphins? Huh? (Laughter)

I've heard -- you guys are really crazy.

So, yeah, please do laugh, because I hope none of you in this room -- I know somebody else, but oh my god.

All of you folks, if this is a healing process, then why is the pod decreasing?

Because if it's a healing process, wouldn't the numbers of the dolphins increase? But we clearly see a recent decline, by people like myself, who have been on land counting the dolphins and counting you folks.

We have photos and everything. We're watching you guys, and we don't really like this.

It's really -- healing starts with respect. Healing comes from within, and your spirituality is infringing on the natives, and I'm a native. There are many ways, but yet everything you talk about to get healing by watching them -- respect comes from within, and that's where healing comes from. You don't need to go chasing dolphins, infringe upon their habitat.

I've had these people getting road rage because I followed the speed limit down the road that night. It almost killed them. They followed me to my house and they get angry at me.

Why? Because I'm following the speed

limit. They come on my land. They're very disrespectful.

You know what, you guys are doing the same thing to the dolphins. You're being disrespectful to them in their own home.

You really need to look within yourselves.

I can see on all of you guys. You guys want healing. I can see it. My heart goes out to you, seriously. You do need healing.

It starts from within, not from without. You don't need to go chasing these dolphins.

Where do you get your information from?

I have heard a lot of you guys lie to point out your facts. You exploit the culture. You lie about the culture.

Believe it or not, Auntie that came in here, I don't know where she's from, but I'm from that ahupua'a. I'm from this island. She's another person who's using the Hawaiian culture as a Hawaiian coming in here and saying stuff.

But the reality is that's not what was happening at Honaunau Bay. Maybe it happened elsewhere, but not at Honaunau Bay. Not in Puna, either. Because maybe if you -- well, maybe at Kehena, but that's fine. That's her thing.

Anyways, good luck to you folks. I really wish you find the healing that you need in life.

Thank you, NOAA. Thank you very much.

Please cite all of these folks.

(Applause)

MS. COLBURN: Crystal Jones. Doug Perrine. Nancy Sweatt. David Blenert.

MS. JONES: Thank you for allowing me the opportunity to speak this evening.

I'm going to be really short. I'm combining my husband's letter, which he couldn't be here this evening, with my comments.

My husband and I have been 20-year residents in Kauai and on the Big Island. I enjoy swimming with the dolphins.

After learning about the proposed regulations that would prevent me from interacting with our family of dolphins, I felt compelled to voice my brief concerns with this.

NOAA controls and regulates 140,000 square miles in the Northwestern Hawaiian Islands, 140,000 square miles. It is a good thing to delete the human footprint from this vast protected treasure.

Inshore waters, however, should be accessible to the public to interact with our ancestral friends, i.e., dolphins, turtles, monk seals, manta rays and, accidental happenstance, even with the whales.

Operators of these open water excursions



educate the public on correct protocol when in the water with sea creatures. This should be encouraged.

Education breeds appreciation.

With illegal longline fishing, overfishing, destructive naval sonar, plastic and pollution, this perceived threat to the dolphins pales greatly by comparison. I urge you to abstain from adopting restrictive rules which would deprive the public of any open water encounters.

Look at our national parks, whether it be grizzlies, cougars, bison, wolves, hawks, eagles or any other endangered or protected species, viewing and cautious approach is allowed, but no touching. We would advocate the same approach to our ocean friends.

The following are some suggestions, which I believe should be enacted to protect our ocean treasures:

An educational in-flight film to be shown to all arriving passengers to Hawaii. Emphasis should be given to correct behavior around dolphins, turtles, monk seals, et cetera.

Hotel room infomercials, apart from showing hula dancers and luaus, could show several minutes devoted to proper protocol around our loving dolphins.

At minimum, simple informational brochures should be handed out to guests upon registration. This would be inexpensive and highly educational.

Excursion operators could distribute cards informing passengers what is and is not allowed while in the water.

In summary, there are many ways to protect dolphins, whales, monk seals, manta rays and other precious sea life. These are only a few.

I urge you to lean toward more educational measures and not impose a ban on public enjoyment of our special ocean friends. (Applause)

MS. COLBURN: We have 25 more people who have indicated an interest in testifying. Can we get your agreement to go until 10:15?

MR. YATES: Let's keep going as long as we can.

MS. COLBURN: Okay. So Doug is next. Doug is not next. Nancy. Nancy will be next. David after Nancy. Greg McLaughlin.

AUDIENCE MEMBER: Greg is no longer here.

MS. SWEATT: For all of you who are still here, I'm Nancy Sweatt.

I was part of a focus group a year ago with NOAA, and we worked very well. We had eight of us, plus Justin, and an anthropologist who NOAA sent down who was an expert in wild animals and human

interactions with wild animals.

Chris, we worked hard. We wrote you a lot of letters. And I see absolutely nothing tonight reflective of that hard work.

I'm very disappointed.

Because the community spoke loud and clear. You had good representation. We have invited you to come down, and I invite you again this evening. Please, come down. Get out of your ivory tower, get in the water and come meet these dolphins. (Applause)

Support us. That is the government's job.

When this first all started, back in the early -- I can't remember it was '98, 2000, 2001, somewhere, there was a meeting. I was in the meeting, and myself, being who I am, passionately wants to understand people.

I know that we have lots of different opinions.

If I can understand what NOAA is trying to get at, and I've tried for years -- and if I can understand, Chris, where you're coming from, and David, where you're coming from.

Then I can begin to begin a dialogue. So I went searching for understanding.

It dawned on me. We have a serious problem in our country trying to protect the waters

from terrorists. It's a huge issue.

I've had many Homeland Security people on my boat. Curious why I've had so many Homeland Security people on my boat, but they're there.

And we talk about it.

I know that the navy has been using dolphins for the military since 1959, and that they are passionate to continue using the dolphins for that reason.

George Bush, our government, doesn't care about a handful of people off the Kona Coast swimming with a few dolphins.

The fact that they're putting this much money, this much energy, behind a few hundred people who are having a wonderful time coming with the result of joy and love, and there has never been any harm to a single dolphin in the entire years of 30 to 40 years this has been going on off the Kona Coast, and the government is putting this much effort into it.

Look at this fancy brochure.

In this brochure that you're passing out, you're asking us to never attempt to swim with the dolphins, leave the water if approached.

Well, if I'm scuba diving at 80 feet and a dolphin approaches me, I cannot leave the water. I'm going to kill myself.

I own a boat. I promise you, no matter what regulations you put up, I'm not going to be able to keep the dolphins away.

But I do know that if you make it a federal offense, if you make it a felony, that if the dolphins come ride the bow of boats, you now have the authority to seize any boat that you want.

And when you're trying to keep terrorists off your coastline, having a tool to be able to seize any boat, and be able to strip it apart looking for weapons and drugs, the dolphins are one heck of a great tool.

We start this here in Hawaii, and it's going to be all over the nation. I want to stop those terrorists. I want to stop those drug runners.

But I don't want to use the dolphins as a tool, and I don't want to put every United States Coast Guard captain at risk, that their license can get pulled and they can be jailed and their boat can be taken away from them because a dolphin came to ride their bow.

We're in a serious problem if we allow the regulations you propose to happen, on so many levels.

I support education. I support having permits, similar to the scuba dive community, which

has been very successful.

I'm a scientist. I chose not to pursue my PhD in oceanography when I swam with a whale in Australia that was sick and in an atoll, and my job for three weeks was to look after that whale. I decided instead my goal was to get with everyday people that speak everyday language and educate them.

So six people a day get educated on my boat, and I make a difference, six people a day. A huge difference for the ecology of the ocean, for the human heart of our lives, as you've heard people tonight over and over again talk about how these dolphins open our hearts.

I have corporate CEOs. I have attorneys. I have Homeland Security people. I have policemen. I have mothers who are at home. I have wealthy people. I have poor people. I have disabled people. Every one of them walks off my boat with a different appreciation than when they stepped on my boat for the ocean, why we should protect it.

So, Chris, I invite you, next time you set up a focus group, work with us. We are still here to work with you.

We want our preservation of the Hawaiian Islands. We want the preservation of the Kona Coast. We want to stay with our dolphins. We want

to keep ourselves safe. We want our boating community to be safe. We want to keep our scuba divers safe. Our fishermen safe.

There is a lot at stake involved. You're allowing a Super Ferry to come in here. You're allowing the military to kill them. You're allowing the fishermen to kill them.

But a handful of people want to swim, creating no harm, whatsoever, and you're questioning that.

Work with us. Be with us. Understand what a community opportunity you have here to change the course of the way science is done and the way the federal government works. You have a wealth of information in Joan Ocean, in myself, in Doug and Trish, and even in Michael Yee, which is not one of my most favorite people. But we are on the water every day with these dolphins.

Douglas, Phillipa, Celeste, we are with these dolphins every day.

Ray is here. Talk to these captains, because there is your science. They know the dolphin's patterns. They know how many people are out there. We know how many dolphins are out there.

Not Jan. He comes for a week a year or two weeks a year when he does his funny little thing. You know that phone booth you put down in

the water?

I don't mean to be disrespectful, Jan.

But take someone who's been on the water for ten years. Jeff Miser (phonetic), who's got more hours on this water than most people in the entire world. Get their input, because they're your real source of information.

I know I went over time. I can talk all day about this, because I'm passionate. Thank you. Thanks everybody for hanging in here for the long haul. (Applause)

MS. COLBURN: I'm not sure if it's blood sugar or the hour, but I think we're drifting into more personal exchanges, and I'd like to keep on the subject.

Robert Flatt is next. David and Leinani Loa. Rick Jones and Iyvie Cooper.

Is Robert Flatt here? Is David or Leinani Loa? So Leinani Loa, Rick Jones and Iyvie Cooper.

MS. LOA: Before I start, I just wanted to make one thing really clear. The dolphins have always been our aumakua, and my family has been here for generations. So when you say that our nai'a are not our aumakua, that is very disrespectful, just to let you know. It's been in our family for generations.

Another comment that I wanted to say also



was that in our ahupua'a in South Kona, we never birthed with the nai'a. So I just needed to go ahead and make that very clear, because our nai'a was very respected and we would never put ourselves in the ocean to birth.

Aloha kakou. My name is Leinani Loa. I am born and raised in the ahupua'a of Honaunau. My bloodline goes back many generations for my family with the nai'a of this island and also kekai, fishermen, hunters.

Honaunau has always been known by everyone as a fishing village in the South Kona area. Our beach has been exploited by people who want to make money. The headline on their ad, come, swim with the dolphins.

As a keiki growing up down at Honaunau Beach we were taught by our parents and our kupuna to respect everything that was around us and, yes, everything was treated with the utmost respect.

The nai'a has always been in the bay and they always were left alone. They would always find comfort and rest in the northern part of our bay. We left them alone. They had their space and we had our space, and that's just the way it's always been.

As keiki, we understood that this ocean belonged to them as well as all other marine sea life and we were entering their environment.

Not ours. Theirs.

Nowadays, it makes me very, very angry as a Hawaiian person to see that people who come to our beach cannot respect the living things in the ocean, and that whenever we approach them, they give us this attitude, like, I paid my ticket to come here so I have every right to do whatever I want, whatever I want and however I want.

Let me put this on the record, because it's happened many times and it does continue to happen to us down there.

Coming from a Hawaiian point of view, if I wasn't taught to control my anger, I would have punched them out.

But that won't solve the problem. When I see people harassing the dolphins and interrupting their rest time, it gets me worked up.

What makes these people think that they can come to our place, our birth place, our Honaunau and disrespect what our kupuna and our parents have taught to us.

This harassment needs to be stopped before someone gets hurt. I feel that if they cannot follow the laws that protect our nai'a, then we should be able to ask them to leave.

Put it this way, what if I follow these people wherever they go and see how they feel to get

harassed, chased, touched. Do they think they would like that? I don't think so.

The northern part of our bay has always been their resting place, and we never disrupted it or disturbed it.

What we do need is more specific laws that will hold people responsible for their action.

We also need to exclude any and all humans from approaching them and also have kapu areas where they will be left alone, times when people shouldn't be allowed to swim with them. Resting times.

We need to see more enforcement of the rules of the marine environment, both by federal enforcement, NOAA enforcement officers and State DOCARE officers.

In conclusion, I do support Jan Ostman-Lind, the Kula Nai'a organization, for their great efforts that they have put together to save one of our oldest living ancestors. Mahalo. (Applause)

MS. COOPER: Aloha. My name is Ivy Cooper. I'm a permanent resident of the Big Island. I work as a health care professional.

I want to thank you for all staying and I appreciate having the opportunity to be here. Just a couple of points I would like to make. There's been a lot of conversation tonight already. I think each person feels very credible in what they have to

say.

Firstly, for me, the action of mandatory education on all levels, from boat operators to guests and tourists, is an essential element for the protection and well-being of the dolphins.

This evening has been educational I think for many people, myself included.

Interactions with the dolphins is a revered educational experience that has continually proven to be life-changing for humans. I think anyone who has even viewed a dolphin, whether it's in a photograph, even standing on the beach or in the water, can't possibly not be affected by just how honorable of a creature they are.

So this is really a call for us to be responsible and honorable ourselves. And it's not rocket science, that human beings have had a difficult time managing themselves and their behavior.

So I think we're looking at some different aspects here. We have the scientific aspect of it. We are dealing with behaviors of a spiritual degree, and now we're coming to spiritual maturity.

We haven't had an earthquake here as an accident. It really has been a call for us to really start looking at things a little differently, a little bit more advanced.

Secondly, I respectfully pose a question.

Is the issue of eliminating human interactions with the dolphins in the ocean a simple diversion, allowing an even greater threat to occur, access for more military experimentation and sonar testing and the additional traffic due to transportation of the general public and troops with the Super Ferry?

Toxins and increased ocean and harbor activity surely has a critical impact.

The scope of the protection of the dolphins is far more pervasive and complex. It requires a thorough process of reviewing and considering all of the relevant issues. Each issue is a human byproduct, whether in the ocean individually or whether participating in other ways of creating disruption in the balance of life. So it's much more expansive, and I think this is what we're being asked to look at.

So I thank you so kindly. (Applause)

MS. COLBURN: Is Bernie Middleton here?  
Bernie, great. Will you come up, please?

Then it will be Jeffrey Cooper.  
Excellent.

Oliver Fix.

AUDIENCE MEMBER: He left.

MS. COLBURN: Stephen Cornacchia.

MR. MIDDLETON: You've a very gracious and funny lady. Very enjoyable.

Bernie Middleton. I'll keep it short.

I've been on the island for about a year and a half. Had my first dolphin experience about six or seven months after I got here. It was simply wonderful.

I was in the water, and I couldn't understand why all of these people were just going around like a herd, or something. The dolphins came around me, then I understood.

But I thought those people were really crazy, because the dolphins were swimming, they came up from the bottom and I couldn't even see them. They evidently -- they're not really hurting them, I just think they want to be close to them.

My observational sense is that the people that are there are all tourists. So I think the real issue is education of the tourists. So I suggest that pamphlets and some of the other suggestions, like education, would be very, very appropriate and help a great deal with some of the behavior that some of the scientists have observed.

I agree with some people that express that we can learn from the dolphins.

No matter what happens tonight, I think we all -- that we need to just go ahead and live our

lives and enjoy and be thankful.

Thank you. (Applause)

MR. COOPER: First of all, I want to respect everyone that has come today. I do understand everyone's passion in their position, and I also feel passionate myself.

My name is Jeffrey Cooper. I'm a medical doctor practicing in the Kona area for over two years. I'm relatively new, compared to some of you.

I thank you for your ongoing concern regarding native inhabitants of the islands.

I've personally seen only positive experiences and interactions between humans and dolphins. Some have been healings. Some have been change in attitude. All positive. There are no negative experiences from the patients I've seen or the people I've interacted with.

I feel it would be a disservice to both mammal groups, being us and the dolphins, to prevent or restrict these amazing experiences from continuing. If there is a true concern for the safety of our sea family, then an educational approach is the most appropriate for all concerned.

I've learned so much just tonight by hearing everyone speak from both sides of the issue. So I feel much more informed to be able to contribute today.

I think, basically, infringement upon the freedom to swim with these intelligent creatures would be a poor choice that could affect many aspects of tourism, also aspects of the Hawaiian culture and regarding some of the human experiences that Dr. Nadia talked about previously with other physicians, how can such a positive experience and experiences come from proposed abusive interactions, that just doesn't make any sense to me.

Lastly, I am thankful to Dr. Johnston for doing all of his research and continuing research to gather the most accurate data as possible and hopefully get the most definitive conclusions, to this point seem to be gathering, but not quite there. So thank you. (Applause)

MR. CORNACCHIA: Aloha. My name is Stephen Cornacchia. I live in lower Napoopoo.

I came in 2001 from New York after the World Trade Buildings were taken down. I retired in 1998, and thought I would stop making money and start giving it back.

Amongst many things, I do collect data two days a week for Kula Nai'a.

It's very obvious after looking at this bay every day for -- from the lanai now, for the last five or six years, that the dolphins are coming in less, there's smaller pods, and that's what's



happening at Kealahou Bay. It's just less.

I've been going to a lot of meetings over the years and I've heard a lot of people talk and talk and talk and talk, and not much has been done.

The laws that are in effect are not being enforced. I have mixed emotions about that. I think people should have freedoms to achieve what they want to achieve, but I don't think that we can blatantly disrespect the authorities. It would be chaotic if it were applied to everything in our lives that we do.

At one time I was in the water at Hookana and dolphins came, and it was really -- it was interesting. It was really cool.

I prefer just to watch them from the shoreline. I think you get a different perspective, and in some ways more interesting.

I fish. I have two commercial boats that I have Hawaiian families run. I get to go fishing and pay all of the expenses and give them all of the fish. It's great.

I work with -- I'm a vice moderator from Kahikolu Church down in Napoopoo, second oldest christian church in the state. I'm working with education. We're trying to help as many people as we can and give as much back as we can.

I'm a little disheartened this evening, to

tell you the truth, to hear some of the attitudes, the conspiracy theories, bringing in the government and doubting scientific data.

Quite frankly, I've heard things said that are just not correct and are not true. Not philosophical things, just factual things.

I would just hope that, as many people have said here, that we can protect the dolphins.

I'll give you some good news, though, that being fishing a lot, the spotted dolphins this year -- I fish a lot -- their reproduction this year has been astronomical. The amount of keiki, or young dolphin, out there, for the spotted kind are tremendous.

I think it's the opposite, from what I've seen and observed over eight months, two days a week, I think Joan would be very disappointed to see the numbers and how many days are just not in there compared to the data that you were taking.

My wife came here in '97 and stayed at the Point House, that was her first encounter with them, and that's why we're here, because she found the dolphins through that beautiful area that you lived in.

We've since dedicated ourselves to fulfilling needs here. I hope that we can continue to contribute in a positive way. Thank you.

(Applause)

MS. COLBURN: Is Oliver here, Oliver Fix?

Is Manny Provetz? Cindy Walsh. Wendi O'Neill Wasson. Paul Wanon -- possibly pronounced differently.

How about Isabelle Bondi? How about -- Patricia McCarver, you're deferring, is that correct?

Kamala Dokstader. Sophia Ranier. Are you Sophia?

MS. RANIER: Yes.

I'm proud of our community on the Big Island and on the Kona side, especially, to stay that long, tell us about how we all happen to be passionate and sincere about all that's been discussed, and not only about our beloved dolphins and the future of our interactions with them and the relationships, but it's clear to me, as to I'm sure many of you or maybe all of you, that this is just a fragment of all that has been happening on this planet that's got off balance, off course, and then creating a lot of issues and problems, and that definitely leads us and brings us to this stage where we can and should and must do something, some action to prevent from further decline and destruction of earth, all of its inhabitants, all of life, including our own.

That's what's been threatened, all species, including humans. All of our species.

So I understand here we are here to discuss this particular issue. I personally encourage to look into the bigger picture, even with this particular aspect of how we protect, the best and most effective way, of the life of our sea water creatures, including whales and dolphins, first of all.

But seeing it from the perspective of all factors that are affecting their lives, I agree with many people who have expressed their concerns about the military presence, about government position with all of the wars and destruction and greedy corporations that continue to bring a lot of toxins into our environment, including ocean sea water with all the creatures, their lives endangered.

And, of course, we could go on and on what other factors would be, like trashing all of the beaches, which all go right to the ocean. One plastic bag, I know, I saw a movie, it could cost 100,000 lives in the ocean.

Not saying about much worse, like pollution from cruise ships, pollution from all of these businesses. Just right here on our island, some big corporations are being sued for polluting the ocean and dumping, dumping for years and years,

and many other things, sewage, acids, and so much.

And the fishery. Again, I'm personally against any fishing, any hunting, any hurting of any live creatures at all levels.

So that definitely, again, concerns and touches all aspects of our lives.

Cultural traditions, also. I was able to call a few Hawaiians, not only for what they were talking about today, dolphins or sea water creatures being conserved. But why not look at the broader aspect and stand up against hunting, fishing, which became like a casual thing, as it's supposed to be forever like that. It's all related.

And that's where it all starts. The peace starts with us.

In fact, from what we put into our temple, our alter, from what we eat, and scientists have proved this, as well as at all other levels has been proved, a direct connection in terms of what humans, us, what we eat and how we behave and the consequences on all levels.

So, for example, vegetarians are known as being peaceful, generally, and they went into research on that, experiments proving that, as well as with animals. So there is so much to say.

But I feel for all of us and for all of those people who stood up and spoke today. It's my

family extended, and I feel myself as a rainbow willing to reach and connect all aspects and all of our concerns.

I enjoy swimming in the ocean with dolphins. I receive those many important messages and always feel the vibration of joy and peace and union and harmony that they teach us, many other things.

However, I also feel for all of their privacy, and I wish we all became really highly spiritually conscious and sincere and find that solution, and I hope we will.

There has been so much about information, so we need to meditate and come with the best solution, which I'm sure we can. (Applause)

MS. COLBURN: Is Victoria Kalman here? Would you like to provide testimony next?

MS. KALMAN: Thank you.

MS. COLBURN: Is Mikahala Roy here? Okay. Next.

Then Josephine Keliipio. Next.

MS. KALMAN: Thank you.

I'm not sure I have anything unique to add to this great gathering. I am very grateful to live in a place where we can share so frankly with one another and be respectful of differing perspectives on an issue that is important to all of us.

To me, the biggest issue is the concept of shared stewardship. I feel that each of us as citizens is a partner with our government and that our government is a partner with us in its responsibility.

The thing that has been mentioned by previous speakers, which is my greatest concern, is the lack of an integrated approach to that stewardship.

As has been mentioned, it seems to me that the regulation of a very small segment of the impacts on our ocean is a waste of energy. Frankly, there are more important matters that NOAA and every other agency could be addressing.

However, notwithstanding the fact that there are many impacts on our ocean, we cannot ignore the things we can control. So I would ask NOAA in its work and in its proposed rule-making to be cognizant of the need for an integrated, careful view of how we approach the preservation of our ocean resources and, that in doing so, maintaining access to those oceans be a primary focus.

Besides it being a place for the generation of oxygen and food supplies for the world community, it's also a source of great pleasure and, as many have spoken, spiritual nourishment.

Telling us we may never go there, it just

won't work. (Applause)

MS. COLBURN: Thank you, Victoria.

Miss Roy.

MS. ROY: Aloha kakou to all of us who are here at this time. Thank you for your time.

I'm very glad I'm here tonight to always hear the voices of many, all of the people. The Queen actually said, the voices of the people is the voice of God.

In this place that I know is God's land, God uses the divine stuff in his own, which is us. So we must listen.

A lot of the testimony has made good sense. I would like to provide the following:

It's with pure gratitude that I thank members of Malama I Na Nai'a for their tireless and efficient effort provided to we, of Hawaii communities at large, to educate us in the current status and condition of our beloved sea friends, na nai'a.

I am Mikahala Roy, lifetime resident of Kona and Oihi. I'm also the president of Kulana Huli Honua, Foundation of the Search for Wisdom, a nonprofit foundation based here in Kona and here in Kamakahonu.

This organization will be submitting written testimony on this most important matter.



This nonprofit is intimately concerned with the well-being of Oiwi, of our history, culture and environments. The nai'a and sea creatures longstanding in the waters of Hawaii pae aina are among our ohana.

Quoting from Handy and Handy in Native Planters, quote, to the Hawaiian, the plants which he cultivates are highly personal. In lore and mythology they are endowed with personality.

The first-born of Wakea and Papa, the sky and earth, was Haloa, also a star name. Thus a personal relationship of kalo to man is implicit in the first scene of the creation.

I, as an Oiwi of Hawaii, and at the same time a member of the larger Pacific ohana, know that there is a name Teohanaonanaia. Through oral sharing in Pacific culture, I am aware of the existence of this name. I am a living human being and I know of the existence of this name. This name means, the family of the nai'a.

In the account of Handy and Handy, from which I just read, I know that the existence of such a name living among the families of our Pacific in my lifetime, to me, affirms that there are more names to find. The name infers strong connection between the people and the nai'a. One way history is conveyed in an oral culture is by names of names.

My name is my grandmother's name, which is the name of a ship. For the sake of my family's history keeping, my grandmother was named after this ship for details appreciated by my ohana. It is a way of conforming an inextricable link between the family and the information given in the name.

Deep facets of Hawaiian and Pacific history, because we are based in an oral society, are still discovered every day. We have not had the benefit of an Academy of Authentic Hawaiian Language, Culture and History available to us growing up here. The academic and governing systems in place in these islands since the overthrow of our beloved Queen Liliuokalani have sought to elevate the language of an occupier, English. They have never been premised to increase the well-being of the Queen's people of these Hawaiian Islands.

How are the stars linked to the lands?

What are our original moolelo that confirm what our hearts feel regarding closeness to our animals, our sea creatures, our entire initial world of our environment in this home which we've inhabited since before the birth of Christ?

The practices of haku mele, song composers, most revered in our old world, are ongoing. We still have bards that tell of the feelings of connection and love to our primordial

world.

Spiritual ones will say that the past, present and seeds of the future are all contained in the very pregnant present moment.

Could this be the reason that a man who was not from Hawaii, but from a state in America, shared with me one day quite an unforgettable experience?

We were at a sacred place in Kona where I had the honor of being a sort of guide. Once in the sacredness, he began to speak in kuu olelo makuahine, my beloved mother tongue. He and I had a bit of difficulty understanding it at first, but upon much closer examination I knew what I was hearing. He did not, at least in his present consciousness, he did not -- at least in his present consciousness, but in his other consciousness, he knew exactly what he was sharing with me in that moment.

He said, 'O 'oukou ka 'ohana o na nai'a.

This means, you folks are the family of the dolphin.

The nai'a are members of the family of Oiwi, people of the bones of our ancestors of these lands. The nai'a are esteemed, beloved family to us, and the relationship between them and our original people perhaps needs to be fully

discovered, like the relationship of the stars to the lands in our Pacific and in our Hawaii.

They are highly placed -- the nai'a are highly placed in a pantheon that only some of us may understand at this time. Perhaps this hierarchy of spirit is the reason that human beings of all racial backgrounds may be able to tell about our brothers and sisters, the nai'a.

In order to better know the nai'a, a committee should be established to research all of the evidence collected over time in Hawaii that tells of the nai'a and the original inhabitants of these islands. This same committee shall be dedicated to interviewing members of elder communities from all of our Hawaiian Islands to learn the truth of these beautiful beings for Hawaii and the world. Thank you. (Applause)

MS. COLBURN: Josephine Keliipio here?

The big hand is past the six, the little hand is past ten. We are about two hours beyond the time that we had envisioned originally for the discussion this evening. But I want to congratulate everyone for your stamina, your bladder health, your ability to hear a wide spectrum of opinions and positions this evening and, for the most part, maintaining a fairly respectful audience for that.

I would like to suggest that if you still

have any kinds of questions that you would like addressed, please put them in writing on those forms. By providing those, you make it easier for the NOAA people to address those issues as they work to craft the Draft Environmental Impact Statement.

It's clear to me -- and I'm sure many of you -- that many of you here tonight have a tremendous amount of knowledge about this subject, and I want to thank you for sharing your views.

Thank you for making this meeting a priority in your schedule this evening. We suspect you were not intending to share this much of your time with us. We appreciate your time is valuable and probably in short supply, and we've probably overtaxed it this evening.

Know that your testimony this evening will help the staff prepare a more much meaningful Draft Environmental Impact Statement for your later review and comments in the months to come.

Questions and comments that are received by November 24th will be considered in the Draft EIS preparation. So if you have an afterthought, if you have a V-8 moment on your way home this evening, if you have additional concerns that you would like to get into the record, please submit those.

Lastly, we would like to ask you to please travel safely to your respective destinations this

evening.

Once again, mahalo for your attendance, your interest, your contributions to this scoping session and for the sincerity and heart that you brought to this evening's discussion. Mahalo for that. (Applause)

(Meeting adjourned at approximately 10:30 p.m.)

## Waianea Public Meeting

TRANSCRIPT OF  
SPINNER DOLPHIN/HUMAN INTERACTION EIS  
PUBLIC  
SCOPING MEETING

Held in Waianae, Hawaii

On

Tuesday, November 21, 2006

(Tuesday, November 21, 2006)

MR. YATES: So we've got a list of people



who have signed up. There's about roughly, 10, 11, 12, 13 people, or so. I just want to -- we're just going to sit in the crowd and listen to your comments. They are being recorded so that you know those will be officially included as part of the public comment for this issue.

Once again, I just want to thank people for coming out. We're trying to find a real common sense, practical way to address this problem. In order to do that, we need a lot of help from people who know what's going on out there in the water, what's going on in the area, the community, surrounding these bays, and that type of stuff. So I really appreciate your help.

We look forward to hearing some of your comments.

(Audience member posing question out of reach of microphone)

MR. YATES: The question was about the difference between the oral testimony and the written testimony. It all is the same.

What happens, basically, is all of the information that's sent to us written through the mail, or all of the information that's sent to us via e-mail, or all of the information that's presented orally at some of these meetings is all basically put together in a large document. We read

all of that. So there's really no difference between sending in a letter.

If something comes in after Friday, it won't be -- after the deadline, it won't be considered in official comment.

But we're interested in getting comments from anyone at anytime. But in order to be included as official public comment during this period, you need to have it postmarked by Friday.

(Comment out of range of microphone)

MR. YATES: Yeah. The question was about, if you speak tonight and you want to send in basically the same thing again.

We would have both of it. They would both be in our system.

But, basically, the comments -- you know, this process is not a vote. It's not a -- it's really looking for comments on the best way to move forward. So if you've said one thing already, to say it again, you're welcome to do that. But basically that idea would already be there. So it's really compiling the different ideas and what people's feelings are.

We're not adding -- we're not tallying up for or against type of thing. So if you want to send in the same thing that you've said, please do so. But that's really not necessary because we

would already have that idea in the system.

So let's go ahead and let Jayne call out the presenters

MS. LEFORS: Okay. I'm just going to read so several people have come up. So you can kind of stage yourselves up here so we can just kind of run through pretty quickly.

We have about an hour or so to present testimony. I've got 13 people. So that works out to four or five minutes at the most per person. So please keep that in mind.

First, we have Jo Jordan. Then Bill Akiona and Faith Arakawa. If you could all come up here, and Jo can start.

(Audience member speaking out of range of microphone)

MS. LEFORS: Oh, okay. You're going to pass. Okay. That's fine.

So then the next one after Faith would be Tori Cullins. So is Jo here?

When you start to speak, would you please give your name to begin with, and then give us your testimony. Thank you.

MS. JORDAN: I guess I'll break the ice.

My name is Jo Jordan. Community member. I want to discuss transits, meaning the transits along the ocean corridor.

There needs to be a reduction or reduce the -- and minimize the impacts to the transits along the coast.

Since the increase in the dolphin tours that have taken place for the last couple of years transits have increased with the pressures to run multiple runs daily or possibly seek out the mammals. This causes disruption to commercial fishing areas, fish schools, spawning areas.

Regulations should support viewing from vessels only, no interaction with the mammals. I would support possibly a staging viewing area with time limitations to help reduce transits along the coastline. Thank you.

MS. LEFORS: Bill Akiona. Is Bill here?

MR. AKIONA: I guess Bill Aila answered a lot of my questions during the break.

I had some concerns living here by Aki's Beach. There's a lot of turtles there. The dolphins always come in there.

Where we live, we can see the whole Makaha surfing beach area, and we can see the dolphins come in every morning, say about nine or ten o'clock. And this is when the tour boats would be going to the dive area at Makaha during the summer.

I'd see some catamarans. I guess -- Bill had told me that they came from Koolina.

But my understanding is -- and Bill clarified this again, Aila -- that there are no permits being issued here out of the Waianae Harbor. But Koolina is not -- there is no limits on permitting.

So I see guys coming out here, I mean, they're like the charter trolling boats that used to troll for fish, fishing trollers. These old boats are out here. They're just puttering along. I mean, there's a lot of noise going on. There's a lot of black smoke coming out of these things. And they're out here two or three times a day, you know, they're trucking it.

I see these cats following behind the dolphins, they're right behind them. You know, shouldn't they -- if they're going to have a permit to come out here or if they are part of tours, shouldn't they know that they're harassing the dolphins?

These guys that are -- I mean, you can hear these guys putting out there. If I can hear them from on the shore, I know they can hear them in the water.

And black smoke, we can even smell the stuff. So there's a lot of work there. So I think -- you know, Bill said that we need to talk to Koolina because it's out of -- you guys are only

doing so much, NOAA, the federal aspects.

But the state will need to start looking at Koolina and Maile again, and the legislature, in looking at the permits from Koolina being issued if they're going to come out here to go to the Makaha surfing area.

I know it's their economic livelihood, and so forth, but there's going to have to be some kind of regulation on these people as well, these tour operators.

And especially if they're chasing the dolphins, you know. They're right behind them. They've got to be accountable for what their actions are doing as well.

That's all I had to say.

MS. CULLINS: Hi. Tori Cullins, Wild Dolphin Foundation, also one of the tour operators out there.

We don't have black smoke, though.

They were addressing earlier about the increase in numbers in people out there on the water. I know for the Waianae Boat Harbor, that's doubled since 1996, the number -- the capacity of the boats coming out of the Waianae Boat Harbor, that's doubled.

The capacity coming out of Koolina since 1996 is a 300 percent increase.

On top of that, is also coming Ocean Pointe Marina, which is 1400 slips, I think in 2007/2008. So we'll have a 300 percent increase with more boats coming out shortly.

So, yeah, NOAA does really have it cut out for them, they're going to have to work hand-in-glove with the state, because NOAA can only do so much and the state is going to have to take over with the rest. So there's some work cut out there.

It's not just the tour boats that are out there, too. There's increased runoff going into the water. The oceans are getting warmer. We're seeing more algae blooms, more algal blooms.

There's just a general imbalance in the ocean in general, which just adds to the dolphins needing rest and being all this noise and commotion and maneuvering going around in their resting grounds.

We've been seeing an increase in dolphins that have some kind of fungus growing on their skin. We first saw this back in 2000, and now we're seeing it on a pretty regular basis. We're seeing these strange tumors growing inside the dolphin's mouths. I saw that about -- when was it? Do you remember? In 2002, or something like that, we thought it was an isolated incident. Now we're seeing another dolphin, the same thing.

It almost looks like -- like the kind of algae that grows on the bottom of the boats, you know the red stuff that kind of waves in the water? They have this coming out of their mouths.

And it's not just something -- we thought it was maybe a foreign object and this algae was growing on that, but on the latest dolphin that we saw, you can actually see a little nodule on its lip.

So it could just be an immune -- you know, their immune systems are being compromised, or whatever. But they need to have more rest. They need to be able to go into those resting grounds, and more so, they need to be able to sleep.

We're seeing less dolphins on a yearly basis. We just go for a yearly average, there are less dolphins than there were back in 1995, quite a few less dolphins and coming in less often into the resting grounds. So more often they're traveling in between and not coming in and resting in those grounds.

When they are in their resting grounds, they're not there like how they used to be. It used to be that they were there until later in the afternoon, maybe sometimes into the evenings. Now it seems -- we're seeing the behavior, too. We're seeing that zigzag behavior when they're starting to



move out. We were coming back to the boat harbor and seeing that there at Pokai Bay. Or we've come back to the boat harbor and they're not in there at Pokai Bay anymore. They used to be in there all day long, or down at Makua. So we're coming -- just early in the day we're seeing these sounding leaps and we're seeing things that we just didn't use to see at that time of day when they're just not getting that rest. They're coming in later and leaving earlier it appears to me, just in general not every day. So maybe go out there and it can be just magic like it used to be.

But overall, there's declines out there.

So in minimizing the impact to the dolphins and for time/area closures, the time/area closures seem actually like a good idea. Like just close them down, the dolphins can go in there and rest.

A little bit worried, though, about a federal act that would close down something and -- you just never know. It could just always spread into something else and we could never get it back.

Maybe at some point, okay, now things have changed and we need to lessen that, or something. But once it's done, it's just a little bit scary that it may not change. So we thought of some kind of semi-closure ideas that would limit access but

not actually close it down, and Armin is going to speak some more on that. Right?

If there was a time closure, right now the proposed action is at nine o'clock -- I believe it's nine to two -- there is no proposed?

MR. YATES: We haven't set any time period --

MS. CULLINS: Oh, okay. I thought I saw it somewhere.

But if there was going to be a time closure that did go through, then we'd like to see it be two o'clock, because that was when the dolphins historically were done resting and were getting up, and we would see that zigzag behavior moving back into the ocean. So if you're going to close anytime, then I think that would be -- I saw someplace nine o'clock, which I thought would just cause a race for everyone to get out there and do their tours and drop their people, which if that were to happen, everyone just piled up on them at that time, they would either not come into the resting grounds or leave the resting grounds, which has been shown in studies even here on this coastline.

Yeah. So a big thing, too, is the enforcement, that whatever happens, that enforcement has to be easily visible and feasible.

Then it has to have a bite. There's got to be some kind of bite to it.

So we'd like the permitting system, which will be addressed more later. We'll also do that in writing, where if that permit is violated, either -- there's either a fine or that permit gets pulled, three strikes, you're out. So then you're out of there.

Then you have peer pressure. You have an example, uh-oh, someone got hit, I'm not going to do that.

Yeah. And then the enforcement has to be so the beach-goer can see it happen, and go, boom, violation. So you can easily take a picture, a time-dated picture, boom. Done.

But not this kind of subjective, like were they swimming or are they snorkeling or where they already there. You know, just something that's very easy.

One is there's no swimming with dolphins. Armin's got some more that he'll address later, so I don't want to run into too much time. Thank you.

MS. LEFORS: Okay. Next is Armin Cullins, David Auwae and Melva Aila.

MR. CULLINS: Hi. My name is Armin Cullins. I'm a tour operator and owner at the Waianae Boat Harbor.

I want to say now, in front of everybody over here, even though I am a tour operator, I'm totally against swimming with the dolphins. I'm sick and tired of seeing other people doing what they're doing, and it's just come to the point to where it's just -- I mean, the animals -- well, first of all, they're not resting anymore.

Second of all, they're not in the resting grounds where they used to be.

Third of all, there's just way too many operators out there. A lot of it has to do with Koolina, and we talked about that.

Hopefully, the state is going to step in and put a moratorium out there or say, look, you know, enough is enough, this area cannot handle anymore.

With the time closures or with the area closures, I'm against closures, period. Because like Tori said before, once you close something -- the way I see it, it's closed for good.

To get this area reopened, for whatever reason, we have to go through the same process again. We've got to have the public hearings, and whatnot. So I'm not for the closures.

But what I am recommend -- or what I was thinking of, what we were thinking of, was if we identified the resting areas, as we all know on this

coast, where it's Pokai Bay, where it's Makua, if we can work with the state and somehow we get two buoys out -- this is just off the top of my head.

Get two buoys out in 40 or 50 feet of water in each resting ground, and these buoys are basically there for commercial operators, for the marine mammal people, and you have a limit of, let's say, 30 minutes. So, basically, the commercial boats, they can drive up to these resting areas, hook up to the mooring buoy, turn their engines off and view the dolphins. Basically, just for viewing.

Do not go in the water. Do not disturb them.

What you do with the buoy is, basically, you hook your boat up so you can shut your engines off so you don't have to worry about high surf or current or none of that. So, therefore, it's real quiet. It's peaceful. The dolphins can rest.

Then when you're done, when your 30 minutes are up, or 45 minutes, however long we decide or NOAA decides, or whoever is going to make the rule, you unhook and you go and you do what you do.

Now, this is proposed for the resting areas.

Now, once the dolphins leave the resting areas, of course, they've got to be transiting and

they've got to go to their places wherever they are -- and I hate to say, basically you have no control anymore.

But I do -- I do believe that we should not allow the human interaction in the water with the dolphins, even so when they're traveling, when they're transiting. That's what I believe as a business owner, and I know I'm going to get a lot of stink from a lot of people for saying that. But that's how I feel. Thanks.

MS. LEFORS: David Auwae.

MR. AUWAE: How's it. My name is David Auwae. I'm a commercial fisherman from Waianae.

My main concern is -- okay, you guys get -- I don't know, what, seven entries coming out of Waianae Boat Harbor? Eight or seven or six?

(Comment out of range of microphone)

MR. AUWAE: No, dolphins. Four.

Now, you get four.

And how much you get coming out of Koolina?

You know, I'm covering the same point as this guy right here, is that, the Federal Government can supersede the state. If the state no can take care of their own, like you're governing the amount that's coming out of Waianae Harbor, you know, we can see that we get excessive tour operators coming

out of Koolina.

If you get 300 slips over there, you people just think of it this way, if that's a million dollar operation and you get 300 slips out of there, and no more no -- and no amount of permits to be issued, you can -- you would rather rent your slip to one Joe Smo, who only can pay for the rental to park his boat over there, versus Koolina, who charge per head I think it was two dollars per head extra, plus their mooring slip, and just think if they had 300 operators coming out of there, it's going to come -- and I telling you, it's already here.

What we see is only the back end with the front end coming.

And with this other place with 1400 slips, they're going to ask for some kind of permits out of there, too. So this coastline is getting raped. This place is getting -- I mean, hey, I had to go into fishing, one other style of fishing, just because these two operators is ruining our grounds. We lucky even let one pod of akule sit down because this guy transiting over here, this other guy transiting over there, they're talking on their radio, hey, the dolphins over here, the dolphins over there.

Hey, we hear them and we see them. I in

the water every day. You know, I mean, I know we get some local people that used to fish out there, stuff like that, and they have moved on. Hey, that's their own kuleana.

But we're still here and we're still here for fish. You know, we feed this island, with the local people for the local fish. We no like eat talapia.

I know I'm getting into the issue of fishing, but I'm telling you right now, we've gone to so many of these meetings and a lot of them get to do it, we get too much operations coming out of Koolina, Waianae, what have you.

You know, you can even think of it this way, one small little bay and four operators go in that one bay. You know, common sense tells you that you're overdoing it.

We are -- I hope that NOAA gets something done, because this thing has gone too far already, way too far. You know, as a local, I don't foresee my kids can fish just because of these kind of operations.

I mean, sure, when we first started, was good, yeah. Had only two, two guys that we knew. Now, there's four.

The next thing you know, at Koolina -- at Koolina, they're not bringing small vessels.



They're bringing million-dollar vessels down here with da kine 40 passengers, you know what I mean?

It's getting crazy. NOAA needs to step in and put the hammer down.

And, hey, not none of this fine thing. As soon as they jam up on their permit, pull the permit. That way, we start eradicating some of these people who are harassing the dolphins.

You know my main concern -- I mean, I feel for the dolphin, but I also feel for us guys who no can even fish these grounds. These guys are all over -- hey, you just wake up in the morning, come ten o'clock, you look, you're going to see boats passing going to Makua, boats going to Nanakuli. It's getting crazy already.

NOAA needs to step in with the feds and lay the hammer down.

Because the state, they're only cockroaches. They're only small timers, pepper sharks. We need the big sharks in here. So when they lay down the hammer, it's over. You know, that's what we need. (Applause)

MS. LEFORS: Melva Aila.

MS. AILA: Aloha. My name is Melva Aila.

I do not support -- I do not support the no action alternative for the following reasons:

Spinner dolphins are currently being

impacted by too many ocean users. There's no limit on the level of viewing. How many boats, kayaks, swimmers is enough?

It appears that many of the spinner dolphins on the Waianae Coast is declining and the current rules in place to protect the spinner dolphins are not working.

Enforcement is nonexistent. So please consider other alternatives. Mahalo for letting me speak. (Applause)

MS. LEFORS: Next up is Rodlyn Brown, Kaimi Pelekai and Cynthia Rezentes.

MS. BROWN: I'm Rodlyn Brown. I've been in Waianae off and on since 1948.

I've seen the decline of spinner dolphins here in Pokai. I've lived in another place where we had a horrible decline, and that was the Monterey Peninsula, where we almost lost all of the sea otters, and it was to human intrusion.

At one time there were 8,000 sea otters. We are now so fortunate that we can count 440. This is what's happening to the spinner dolphins.

My husband and I have a sailboat in Waianae Harbor. We go out and we see these excursion boats deliberately go right into the pod of dolphins and drop their people with their fins and their snorkels and their everything overboard

into the pod. This is wrong.

Dolphins are very social animals. They will follow your boat. They will jump and go with you, and it's glorious. They're doing it at their will, not at ours.

This is the way they should be treated, that they do at their will and that the people are not infringing on their birthing, on their mating, on their feeding, on their resting.

We are wrong to allow this and we need some really hard, harsh rules. We have boats coming out of Koolina, out of Barbers Point, out of all over the place coming here. They're even coming around from Haleiwa. And they're coming over here because we have one of the most beautiful coastlines and we've got these beautiful spinner dolphins.

And to allow this to continue, to allow this to happen, the people are at fault, not the dolphins. So something has got to be done.

And if it's going to take two years to do it, then we better get off our high horse and get it done before all there are left are 440 spinner dolphins. Because I'll guarantee you, in 1948 there were a whole lot more than 3,000. Thank you.

(Applause)

MR. PELEKAI: Aloha. My name is Kaimi Pelekai and I'm a tour boat operator, resident from

Nanakuli. I'm an akule fisherman. I'm an aku fisherman. I'm a Hawaiian who likes to surf, dive, be a part of the ocean.

I'm here today, and I have to tell you I'm very happy and somewhat humbled hearing a lot of the comments.

I started this business because I sat at Waianae Boat Harbor taking off akule and counting the people and admiring him for his boat. I figured out in my head how much they charge per person, and went, wow, they're making some money. And they get to be in the ocean.

I like to be in the ocean. This is where I grew up, in the ocean. So how come I cannot do that. Or why shouldn't I do that.

You know, and that's where we started. Because we saw other people coming into our community, taking tourists out and doing their thing, and we sat there taking fish out, going, wow, that looks like fun. You know what I mean?

They're not stressing out. They don't have to get up at five o'clock in the morning and go fly a plane, come out here, drop the nets, pick them up, take out fish, reload the nets, drop them again, pick them up, drop them again. You know.

So that was our interest in getting involved in this business, because it looked like

something that could benefit our community, our family, and that's why we started.

Learning about what's happening to the dolphins today, as a Hawaiian person -- there's a lot of different people who have cultural connections and they feel specific ways about their cultural connection to these dolphins.

But just as a Hawaiian person who has kuleana to respect our land and to respect the islands, you know, I would agree that there's something that needs to be done.

However, it's very dangerous when you give the government the ability to control and to come in and -- like what David was saying, just drop the hammer. Sometimes it's good. Sometimes it's bad.

You know, just like Armin was saying, because the hammer might mean nobody goes in, nobody can fish, nobody can look at dolphins. Nothing.

So I guess the number one concern is that I want to make sure that whatever comes out of this is based on proof. And today what I heard up here is you don't really have proof. The lady said, we don't know the impact. We're looking in the future, maybe what we're doing right now might have an impact, and I would agree, because of places elsewhere that have seen detrimental impacts to mammal populations.

But let's be accurate because people are going to be affected. You're going to affect the lives of people, like -- I mean, you've got to understand the economic draw that the dolphins bring to the Waianae Coastline. That's going to be part of the EIS. Okay.

Now, whether or not Tori and Armin and the rest of us can survive after they shut down, that's going to be up to us educating the tourism market that it's still a viable option to come out here.

Whether or not the communication happens, that's up to us as individual businesses. Okay. So you're not going to have any impact on that.

You're going to come in and drop the hammer and go okay, now deal with it.

Now, I've got to go into Waikiki and I've got to tell everybody, yeah, but you should still come to Waianae anyway. Or, yeah, you should still come on our tour anyway, even though we cannot swim with the dolphins. You're going to leave. You're not going to help us.

You're going to take my tax money to shut me down, but you're not going to help me to fix the problem. You know what I mean?

So I'm not -- sorry to say you, or whatever. But that's what it's going to be. That's what's going to happen.

You're going to make these laws. Now we got to go and re-educate everybody in Waikiki. We're all going to see slowdowns in the amount of business that comes out here. That's going to affect everybody. I'm going to have to layoff everybody. I cannot go to Ralph Sito's gas shop and buy some more -- I don't think he will mind.

So anyway, first off, let's just base it on some proof. In that sense, look at the four options that we have on whether or not you completely ban swimming, whatever. You guys are the scientists. If you feel that's where we've got to go, then that's where we've got to go.

However, I think one smart thing, and I'd like to suggest this, is perhaps if you do look at a permitting option to consider putting NOAA officials on the boats that have permits, if that's viable or possible.

Or however you're going to work it, like you do with the longline and the turtle guys. Right? People went to school to learn how to work with the turtles, and sent them on the longline boats.

The same issue -- because here's why, if you shut down our bay and nobody can go in there, great. But when they move, like Armin was saying, now what?

Well, what if you don't shut down any place but you just put an official on the boat that goes, here's the rules of the game. Now everybody is playing by the same rules.

What's happening now is that people are coming in without playing -- we're not all playing by the same rules. Some people do things. Some people don't. Some people do things certain ways, whatever.

So I guess my comment, my suggestion is that, one option, if you're going to regulate and permit, consider having officials on the boat, because then you can regulate it. You can't -- I mean, you wouldn't even have to worry about the permit being pulled because the NOAA official is going to say you cannot -- they're sleeping, don't go over there. And everybody is going to say that.

Or, okay, they're moving, you know, we can get 50 yards, or whatever the rules are.

Then at the same time, you can use the dolphin tour boats as enforcement. Because now you're going to have NOAA officials on the boats. You can educate people swimming out.

Whereas before we -- some of the operators have had to drive up to the people swimming out and tried to say to them, and/or we just stand back, because we feel like that's not our job.



Whereas you're going to have more people will know about how you should interact with mammals, with the mammals more of the time, looking at them, recording them, whatever they want. You have a safe and viable way for NOAA's guidelines, and you don't put us out of business.

So I guess my comment is, if you're going to regulate, permit, consider restricting that amount of people because there obviously is an overusage, put people on the boats that can educate, not just us, but -- I mean, if you really want to make a difference, if it's not just about being angry at us dolphin operators, if it's about making a difference, then spend the money to put people on our boats who are going to be out there every day and educate everyone who launches out of Waianae Harbor and goes out of the harbor and runs into dolphins. At least we're going to be there so we can be -- hey, this is how we should treat them, to everybody. Not just us.

If anybody, we're probably your best advocates, because this is how we make -- this is why people come. So it behooves us to work with you somehow, and so we -- if you can figure out a way to make that happen, we can help you educate the rest of the world, if you want.

Because people who come through us are

going to get the right information. They're going to have to get it, because that's how the regulatory body makes it work.

If we want to do this business, we've got to put a NOAA guy on the boat, he would have to be educated and everybody who comes on the boat learns about the dolphins like this, everything is the same.

Challenge now is everything for everybody is different. We don't have any permitting. Nobody is out there saying what the rules are. So especially, like they were saying at Koolina, they can let in as much people as they want. So I encourage the opportunity, and also to look at the economic impact.

That's it. Thank you. (Applause)

MS. REZENTES: Hi. I'm Cynthia Rezentes.

I'm going to speak to Alternative 4 tonight, that's the one where you're talking about total closure, both to commercial and noncommercial activities.

I'm not in support of that. When you talk about a total closure to both commercial and noncommercial activities, that means you're also restricting traditional uses of the bay, which could be shoreline casting, it could be throw netting. It could be anything that you might be doing within

that area at that same time.

I don't believe that you're talking about activities that would have the severe impacts that you have with all the tour operators and the transits.

The other thing is when you start doing a total closure, as has been said before, there's almost no way we'll ever recover from that.

It's like we did at Hanauma Bay here. Even though that was supposed to be a state experiment, where it was supposed to utilize traditional practices of closing a reef, seeing what the recovery would be, then opening it up and closing the next reef, that area, because it became such a tourist attraction, has never been opened up to fishing again.

So sometimes with our intent -- our good intents, we end up causing ourselves more issues in the long run. This could potentially be something like that.

So from that standpoint, a total closure needs to be really seriously considered before we head in that direction.

The other thing I wanted to bring up tonight is, you know, we've been talking about specific resting grounds. We've been talking about Kahe, Pokai and Makua.

Interestingly enough, Sunday morning, as I'm heading into town at 8:15 in the morning, there was a pod between Hakimo Road in Nanakuli and Maile Point. They were probably a quarter to a half mile offshore. There were two boats with them, one of which had already dropped their swimmers in the ocean. That is not a typical resting area for these spinner dolphins because that is not in a protected area. It is not in a protected bay.

In fact, that area can be pretty rough when you're talking about winds and directional changes for your currents.

So we're already seeing altered behavior. Because when I went past Kahe, there was nothing and nobody there. So we're already seeing the effects of the impacts of all of this activity on spinner dolphins already. So there needs to be something done. There needs to be something done fairly quickly because we're already seeing impacts, not just some of the reports that you've heard about the reductions in the numbers over the years. But the resting areas are not the resting areas any longer, and these spinner dolphins are attempting to find other areas that are not as protected or conducive to their rest habits.

So those are the things that I wanted to cover tonight, because I think it is important that

we start looking at trying to control that so that they will have the opportunity to continue to prosper out here. Thank you.

MS. LEFORS: Next is Reid Nagai, and then Lucy Gay.

(Comment made out of range of microphone)

MS. LEFORS: Oh, okay. So you're going to pass? All right.

Lucy Gay. Then Carl Jellings and William Aila.

MS. GAY: Good evening. My name is Lucy Gay.

The things I want to add are things that maybe haven't been mentioned yet. Or if they were, I was talking and I didn't hear. So pardon me if I'm redundant.

I wanted to start off with Chris Yates, when you opened your meeting you talked about what brought this about is the increased demand. From whom?

Not from the fishermen. Not from that setting.

But from the tourist industry. So if that's the true conclusion on my part and your part, as you're nodding in agreement, then we need to look at who needs to be managed and controlled here. Because, obviously, they are not self-managing

themselves.

In an industry that can comport to be one that is essentially eco-tourism, and I find that very contradictory to portray tour operators who take visitors to see our natural world as being supportive of eco-tourism. Because for me, eco-tourism is defined -- it implies that there is an issue of sustainability, that there is respect for the environment, for the geographic characteristics of the place, the aesthetics, for the heritage and for the well-being of the local people. I don't see any of these aspects of eco-tourism evidenced by the situation we now find ourselves in, very close relative to management action of dolphins.

So if that's a true statement, then you need to look at how do we bring about those kinds of institutionalized -- institutional restraints when we apply it to where it needs to get, so that we don't have the unintended consequence for impacting those who have been exercising self-regulation, have been actually living and practicing what modern people, western people, call eco-tourism and what native people have always called their kuleana, responsibility.

So if we're going to place any kind of regulations, I want to make sure that those who have been responsible, those sectors of our society, that

they are not restrained.

If we're talking about the option to issue permits, to supplement that with NOAA observers -- I don't know what the proper term is. Are they observers?

It strikes me that that's very redundant.

Because the nature of a permit implies, then, that one has acquired a certain level of understanding, knowledge of what that permit stands for, and based on that there is an agreement that I will abide by -- it's like a contract. And that's what -- you know, I'm trying to think about -- for kind of a comparison, when we go to the police department so that we can get a permit, so eventually we will have a license and the privilege, the privilege, not the right, the privilege to operate on our roadways, we don't expect the policeman sitting next to us every time we pull out of our garage or out of our parking stall at a shopping mall, because we have made an agreement, a covenant, saying I understand my responsibility.

So when we're going to talk about permits, I don't see it as just simply something where I walk in, I pay my money and off I go. For me, it means more than that. There's a level of knowledge, understanding and evidence, behavior, proof that you know what that is, and that there are consequences.

Let's see. I don't think the issue we're talking about will ever go away. If we keep going the way we're going, doing nothing. So I'm against the status quo.

I support the notion of time closure and the area closure.

I think that's the one that has the least -- has the most -- brings the most protection to the dolphins, because it respects its time for rest and I think it minimizes the impact on all operators.

So I'm in total support of that, and I only ask that my first point be something that you give serious consideration to.

I may have other comments that I might not have -- it's really hard when you're up front there trying to flip through your notes. So I think I will write those out and send them to you. Thank you. (Applause)

MS. LEFORS: Carl. Carl Jellings.

MR. JELLINGS: Aloha. My name is Carl Jellings.

I'm a commercial fishermen, too, since 1974. So I got to fish these waters before any of the tours even started. The dive tours started in about '86 and the dolphin tours started in '96.

I'm not going to talk about dolphins because I'm not an expert on dolphins.



And I also wanted to mention that Hawaiian tours and dolphins on our side, these guys live in Waianae. These are the only two guys that live in Waianae. I have a hard talking negative about the industry, just because of these two guys.

But the real impacts is coming from everybody. I can swallow what these guys do, but I have a hard time swallowing what the outside, other communities, is causing, bringing on us, people that lived here all our lives.

Like they were saying, the economic impacts on our fishers and all of our fisheries over the last eight years, from 1998 until now, we can see the increases. This thing is like a cancer to our -- to what we target. We target the most sensitive fish in the ocean. The most sensitive fish to noise is what we target, is the bigeye scad, what Hawaiians call akule. They're the most sensitive fish to sound.

So we're the first to see the impacts that thousands of transits in a year causes on this species of fish.

And when there was only -- in 2000, there was five vessels, and I was at a very -- at a very -- the noise of our transit that I could feel was like 7,000 transits that this industry was causing on our coastline. This is from Koolina to Waianae

Boat Harbor. The transits that goes in these two harbors, it's crossing over a lot of times, you know, from Waianae to Kahe and from Koolina to Makua, you know, it's like that. Huge, huge area we're talking about. All of our fishing grounds, practically.

The constant transiting, you know. The opelu fishing started to see the middle -- the middle of our fishing grounds, between Kaena and Barbers started to die.

I've been talking about this for six years. I've seen the middle die, too, from Pokai Bay to Maile Point. Never been any surrounds there in over five years. We surrounded there dozens of times, dozens of times, in one year, from 1974 to about 2000, 1999. You know, I have it in my logs, but.

We remember what we did in the past and we know what we're doing now.

You know, yesterday -- yesterday we went - - there's three big schools of fish, right. Because we know this. We've seen this all of the time. But scientists will tell us that, hey, we have to do a study because we're not scientists. But we're fishermen. But we know, we bet money -- we gamble big money on what we do. You know, we spend big money on how I think.

Not only my money, my crew's time. You know, sometimes 12, 15 hour, 18-hour days, they gamble on my knowledge. You know, they put in their time and they're going with what I know and my experience. So I'm not talking to you like I don't know what I'm talking about, you know.

The scientists say, oh, you don't know what you're talking about. I know what I'm talking about. My crew, my crew believe in what I know and they put their time and effort on the line for me.

Just like for all fishermen out there, these guys believe in me because they know what they're talking about, because they've been doing it a long time, they have that much experience.

So when I say the fish is dying in this area, that's what I'm saying. I'm saying that from this point to this point, there's no longer any fish there. We don't need to do one study. Because if you don't do nothing, because if you don't stop all of these transittings going on, that place is going to stay dead. It's going to stay dead, when I'm dead, when my son is dead, and you can bank on what I'm saying. You can bank on what I'm saying.

You guys from NOAA, we've been waiting for you guys for five years. From 1999, I never miss any hearings at the Capitol, not one hearing I missed when it came to this subject.

Now you guys finally coming into the picture. We waited a long time for you guys.

Still the state said, you know, we cannot do nothing about this. We cannot regulate these guys because of mammal protection act, even if they in state waters, even if we're getting revenues from these people, we still cannot do nothing.

It's up to you guys.

So everybody think talk to me -- Kaimi talking about -- talking about his business. I'm talking about my business, too. I'm talking about the last six years of my business being affected. How come we've got to spend \$300 in fuel for go all the way up Ewa Beach, somebody else's moku, for go bring home akule for Waianae. What is that? That's stupid.

We're supposed to be fishing right here, right in front of our own grounds.

Yesterday, we went all the way up to the Coast Guard station. And then we never do good up there because the fish was too small for our nets. So we came back and refueled and went all the way. From one side of the island to the other side of the island, what happened to the middle?

I really believe in that, you know. And I don't care if -- I not saying this without thinking that I might be hurting somebody, or whatever.

But, hey, I've been saying this before, only when had two guys out, I was saying this already.

When I only had Armin and Victoria was out, I was saying this already.

Before we had all these other guys coming in from -- what you call it, Koolina, I was saying this.

William know. I was going to his office and telling him this.

So, you know, they talking about the hammer. We just had the hammer put on us because some idiot left that net in the water and killed a seal. So we got the hammer put on us for certain kinds of fishing for us, so. So when you talk about the hammer, I know what the hammer is.

And this -- you see, we're not talking about -- when we're talking about these fish right here, we're not talking about peanuts. These fish is worth -- is very valuable in the Hawaiian community, in the local community. Everybody eats this fish, you know. This thing generates a lot of revenue, too. Just like tourism.

Two thousand pounds of this stuff generates eighteen thousand dollars. You know, from the fisherman, to the buyer, to the retail value, eighteen thousand dollars for every two thousand

pounds. Opelu and akule.

In places in Waianae, you only can catch certain -- you know, Waianae is the most productive place when it comes to this fish, when it comes to opelu. It's the most productive place. So it's not like -- it's not like Kona, where you have all of those big boaters, high cliffs, the rugged grounds.

These grounds is all perfect for akule fishing. Kaimi know. He fished with his father when he was in diapers. So he know I'm not lying.

But we're asking you guys for help save our businesses, too. You know, we're asking for balance. You know what I mean? Balance.

Balance the tours so the fishermen can continue to fish and have their livelihoods, too. Because we're getting impacted the most, that negative impact the most is on us and the dolphins, but us also.

So thank you very much for the opportunity. (Applause)

MR. AILA: Aloha, everybody. My name is William Aila. I'm the Harbor Master, but I'm an individual tonight and have nothing to do with the state or the state's position. I've got to make that clear.

I'll be real fast because we had a discussion about what they should do, issue number

two.

So with regard to Issue 2, which is some minimal distance between animals and tours, whether it be dolphins (inaudible) on the beach, or wherever the place may be, take a look at instituting some distance, whether it's 50 yards or 100 yards, it doesn't matter. The problem is -- the crux is where -- people mentioned it earlier, where we have an animal that is so gregarious, the dolphin will come up to boats.

So in that case, I'm not an attorney, but I know the attorney would advise you that you've always got to move back. So if you see a boat that's pursuing a dolphin pod, the dolphins aren't swimming to him, or if you can see a swimmer pursue a dolphin pod, or the dolphins obviously are pursuing him, if he gets within 50 or 100 yards, whatever that final rule may be, then obviously the intent was to pursue or harass, whatever we want to use.

So whatever the language you use, there has to clearly spell out certain instances of intent -- or clear instances of when you have a list of actions that clearly demonstrate the intent was to come within that boundary or distance from the animal. So intent is always important.

It's important for us, because some of us

troll and sometimes the spinners mix in with the people -- or the spotted dolphin, and we've got people who purposely look for them to troll for the ahi that are sometimes found with them.

I do know that there's a provision in the Marine Mammal Protection Act for commercial fishermen to have those interactions with those dolphins at that time.

But we don't want to see this (inaudible) that intention. So I'm just going to -- would support some sort of distance from the animal, very carefully describing what kind of activities describe the intent to prohibit that from the rule, whatever that may be.

So thank you very much for the opportunity to testify tonight. (Applause)

MS. LEFORS: Well, that's the end of our list of commenters. I just really want to thank you all for coming and thank you for inviting us as well. We appreciate the opportunity to share this information with you.

Again, contact us if you have any other questions. Thank you. (Applause)

MR. YATES: Just again, thank you very much for inviting us up here. It's been very rewarding to hear everybody's comments. I would like us to continue this dialogue.



The public comment period closes on Friday, but that doesn't mean that we can't keep talking with the community and trying to figure out a good common sense way to address this issue. I think we heard a lot of really valid points from a lot of people with a lot of good common sense ideas, and that's really what we're trying to do, is find a good solution that we all can agree on and move forward with. So thank you very much. (Applause)

(Meeting adjourned)