

**DISASTER, RESILIENCE, INTERNATIONAL AFFAIRS, AND  
PLANNING COMMITTEE**  
Council of the County of Maui

**MINUTES**

**March 22, 2023**

**Online Only via BlueJeans**

**CONVENE:** 1:34 p.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Tamara Paltin, Chair  
Councilmember Nohelani Uʻu-Hodgins, Vice-Chair  
Councilmember Tom Cook, Member (Out 2:28 p.m.; In 2:34 p.m.; Out 4:06 p.m.)  
Councilmember Tasha Kama, Member (Out 3:47 p.m.; In 3:52 p.m.)  
Councilmember Keani N.W. Rawlins-Fernandez, Member (Out 3:12 p.m.; In 3:16 p.m.)  
Councilmember Shane M. Sinenci, Member  
Councilmember Yuki Lei K. Sugimura, Member

**STAFF:**

Paige Greco, Legislative Analyst  
James Krueger, Senior Committee Analyst  
Richard Mitchell, Legislative Attorney  
Maria Leon, Committee Secretary  
Lei Dinneen, Council Services Assistant Clerk  
Nālani Fujihara, Hawaiian Language Communications Specialist  
Lesley Milner, Senior Committee Analyst  
Ellen McKinley, Legislative Analyst

Susan Clements, Executive Assistant to Councilmember Uʻu-Hodgins  
Laura McDowell, Executive Assistant to Councilmember Uʻu-Hodgins  
Stacy Takahashi, Executive Assistant to Councilmember Cook  
Evan Dust, Executive Assistant to Councilmember Kama  
Noelani Ahia, Executive Assistant to Councilmember Rawlins-Fernandez  
Dawn Lono, Executive Assistant to Councilmember Sinenci  
Don Atay, Executive Assistant to Councilmember Sinenci  
Axel Beers, Executive Assistant to Councilmember Johnson

Zhantell Lindo, Council Aide, Molokaʻi Residency Area Office  
Roxanne Morita, Council Aide, Lānaʻi Residency Area Office  
Mavis Oliveira, Council Aide, East Maui Residency Area Office  
Jade Rojas-Letisi, Council Aide, Makawao-Haʻikū-Pāʻia Residency Area Office

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**ADMIN.:** Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
Henry “Hanale” Lindo, Assistant Chief of Operations, Department of Fire and Public Safety

**OTHERS:** Commander Kristen Hahn, Response Department Head, Sector Honolulu, United States Coast Guard  
Lieutenant Eric Juback, District Response Advisory Team Supervisor, Sector Honolulu, United States Coast Guard  
Lieutenant Brian Christina, Marine Safety Team Maui Supervisor, United States Coast Guard  
Lieutenant Sylvia Dai, Staff Attorney, District 14, United States Coast Guard  
Laura Ka’akua, First Deputy, State Department of Land and Natural Resources  
Meghan Statts, Assistant Administrator, Division of Boating and Ocean Recreation, State Department of Land and Natural Resources  
Howard Rodrigues, Maui Branch Chief, Division of Conservation and Resources Enforcement, State Department of Land and Natural Resources  
Ronald Cahill, East District Supervisor, Division of Conservation and Resources Enforcement, State Department of Land and Natural Resources  
John Yamamoto, West District Supervisor, Division of Conservation and Resources Enforcement, State Department of Land and Natural Resources  
Jeffery Kinores, Administrative Supervisor, Division of Conservation and Resources Enforcement, State Department of Land and Natural Resources  
Russell Sparks, Maui Aquatic Biologist, Division of Aquatic Resources, State Department of Land and Natural Resources  
Tapani Vuori, Board of Directors President, Maui Ocean Center Marine Institute

Testifiers

Shelly Ha’i, Native Tenant Protection Council  
John Carty, Save Honolua Coalition  
Tiare Lawrence  
Kekai Keahi  
Faith Chase  
(10) additional attendees

**PRESS:** Akakū: Maui Community Television, Inc.

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CHAIR PALTIN: . . .*(gavel)*. . . Aloha ‘auinalā kākou. Welcome to today's Disaster, Resilience, International Affairs, and Planning Committee meeting of March 22nd. The time is 1:34, and I will be your Chair for today's meeting. If everyone could please silence their cell phones or any noise-making devices, that’ll help our cause. Thank you so much. In accordance with the Sunshine Law, if you are not in the Council Chamber, please identify by name who, if anyone, is in the room, vehicle, or workspace with you today. This is only for the Members, and minors do not need to be identified. Also, please see the last page of the agenda for information on meeting connectivity. My name is Tamara Paltin, and we have with us our Vice-Chair Nohelani U‘u-Hodgins. Aloha ‘auinalā.

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VICE-CHAIR U‘U-HODGINS: Aloha, Chair. Looking forward to today’s meeting. Thank you for being with us today.

CHAIR PALTIN: Thank you. And we also have Councilmember Tom Cook.

COUNCILMEMBER COOK: Aloha, Chair.

CHAIR PALTIN: Aloha. Councilmember Tasha Kama.

COUNCILMEMBER KAMA: Aloha ‘auinalā, Chair, it’s great to be here.

CHAIR PALTIN: And Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: Aloha ‘auinalā, Chair.

CHAIR PALTIN: And I just saw Councilmember Sugimura, but she probably will come back, so excused at this time. Our Non-Voting Committee Members are Gabe Johnson and Council Chair Alice Lee, who are not required to be present, but are welcome to join us at any time. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha, Chair, I’m here too.

CHAIR PALTIN: Oh, shoot. We also have Councilmember Keani Rawlins-Fernandez, as well as we have Councilmember Yuki Lei Sugimura joining us. Good afternoon.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha ‘auinalā, and at the Moloka‘i District Office, it looks like we have no testifiers. Mahalo, Chair.

CHAIR PALTIN: No testifiers, right on. Sorry, I don’t know what happened. From the Administration, we have Deputy Corp. Counsel Michael Hopper. From the Fire Department, Department of Fire and Public Safety, we have Henry “Hanale” Lindo, Assistant Chief of Operations. And we also have with us the Coast Guard today. Thank you so much for joining us. We have Lieutenant Eric Juback, Commander Kristen Hahn. Aloha. Lieutenant Sylvia Dai. Aloha. And I’m not sure, they didn’t say who the Maui...Lieutenant Brian Christina. Thank you so much for joining us, and in person. We’re super stoked to have you. Sorry, I was a little late. And from the Department of Land and Natural Resources, we have First Deputy Laura Ka‘akua, and I just want to do a disclaimer that although the DLNR has been around a long time, First Deputy has only been on the job for a few months. So, thank you so much for joining us, Laura. And if you can introduce any of the other DLNR representatives that will be speaking today, that would be awesome.

MS. KA‘AKUA: Sure. Aloha, everyone. Can you hear me okay?

CHAIR PALTIN: Yes.

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MS. KA'AKUA: Okay, mahalo. And mahalo for having all of us from DLNR. We're happy to be here. I'm joined by Chief Rodrigues, Lieutenant Cahill, Lieutenant Yamamoto from DOCARE, and then we have Meghan Statts from DOBOR, the Division of Boating and Ocean Recreation. We also have Russell Sparks from our Division of Aquatic Resources.

CHAIR PALTIN: Thank you so much. And from Maui Ocean Center, we also have Tapani Vuori joining us today. He's in the audience, and when it's his presentation, he can...he can come up. So, I would like to designate the individuals just mentioned as resource persons under Rule 18(A) of the Rules of the Council, given their expertise in the topic of maritime disasters.

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Thank you. And our Committee Staff for today, we have Committee Secretary Maria Leon, Legislative Analysts Paige Greco and James Krueger, Legislative Attorney Remi Mitchell, and Assistant Clerks Lei Dinneen and Jean Pokipala. On the agenda today, we have one item, DRIP-2(1), which is Maritime Disasters, and we'll be receiving presentations related to maritime disasters from the U.S. Coast Guard, State Department of Land and Natural Resource...Resources, and the Maui Ocean Center, and Department of Fire and Public Safety. The Committee may discuss other related matters, but no legislative action will be taken. And because we only have the one item on the agenda today, I will ask for opening comments and presentations from our representatives before receiving testimony, if that's all right with the Members.

COUNCILMEMBERS: No objections.

**ITEM 2(1): MARITIME DISASTERS (RULE 7(B))**

CHAIR PALTIN: Thank you. So, the reason that I scheduled this item is, you know, of course, there was the large yacht in Honolua Bay, which the Coast Guard helped us with. But, you know, also, on top of that, every winter we have Kona storms, and nearly every Kona storm, we have a number of boats grounding or shipwrecking in West Maui, and also South Maui. And so, it's just kind of to try and get more information, see if anything can be done about this. Many boat owners don't intend for their vessels to end up like that, and are wholly unprepared to deal with it. And it a lot of time causes some problems. And so, you know, this is kind of, you know, the first of hopefully a continuing dialogue on how to try and prevent this or better address it. Because, you know, I've been working around the ocean for like 20 years, and it seems every year there is at least one, if not 20. So, at this time, if each of our presentations can go. I'll defer to the Coast Guard, probably, and then DLNR, Maui Ocean Center, and then Fire Department, if that's okay? Okay. Take it away, Coast Guard.

MS. HAHN: Can you hear me all right? Okay. Hi, I am Commander Kristen Hahn. I flew in this morning with several of the people here today. I am the response department head at Sector Honolulu, which is responsible for all Coast Guard missions for the entire State of Hawai'i, as well as American Samoa, and some other waters around the Pacific.

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So, we'll introduce ourselves a little bit briefly, and then we'll go into further detail.

MR. JUBACK: Hi, I'm Lieutenant Eric Juback. I am the District Response Advisory Team Supervisor. My role is to support the Federal on-scene coordinator with disaster response, specifically oil and hazardous materials, on how we coordinate with County, State, and local officials in those instances, and help support the surge of resources into the area.

MR. CHRISTINA: Aloha. I'm Lieutenant Brian Christina. I'm the local Maui rep for the Coast Guard. I'm the supervisor of Marine Safety Team Maui in Kahului. We do the prevention mission, which is marine safety, facility inspections, vessel inspections, and vessel investigations as well. I'm happy to be here today. Thank you.

MS. DAI: Good afternoon. Can you hear me now? Good afternoon. My name is Lieutenant Sylvia Dai. I'm a staff attorney at District 14, so I am the legal advisor for all of Sector Honolulu, and I work with three other attorneys who cover Sector Guam, as well as Air Station Barbers Point, and the District Office, so the District Commander.

MS. HAHN: Aloha. So, just to...to give a brief overview of...of our authorities in this...these types of situations. We're very happy to be here because we value our partnership with the County, as well as the State, and other authorities to respond to any kind of disaster or...or incident. But a huge part of the Coast Guard's mission here is to prevent personal casualties, damage to property, and damage to the environment, and the marine environmental resources. We do that through developing and enforcing regulations for maritime safety, security, environment...environmental stewardship. We also develop...we do compulsory inspections on vessels that are commercial vessels and fishing vessels, and voluntary inspections on recreational vessels. We have...we license and credential mariners, and promote best practices by investigating marine casualties. That's what Lieutenant Christina does on an almost daily basis. And then we share those findings with the maritime community, so we can prevent those incidents from happening again. We also have a robust Port State Control program that's largely based in Honolulu, that enforces international treaty obligations, to ensure foreign vessels that come to the region are acting in a safe and a secure manner. We also administer the Coast Guard Auxiliary, which has a big role in enforcing recreational boating safety. And...and a lot of these vessels that you're finding in these situations are recreational vessels. So, I highlight that, just to show they have...they do air and on the water patrols, they provide recreational boating instruction on a voluntary basis to local mariners, and they'll do safety checks as well. The Coast Guard also serves as the national coordinator on the National Rec Boating Safety Program, and we are the Federal officer for the National Boating Safety Advisory Council. So, through these programs, we liaise with international, State, and local partners to support National Recreational Boating safety goals. And we directly perform over 50,000 recreational boating inspections each year nationwide, and so, a large portion of that, you know, obviously, is in the State of Hawai'i. But Lt. Juback to my right is definitely a subject matter expert, so I'm going to hand it over to him for some more of the details.

MR. JUBACK: Thank you, Commander. So, as I stated, I'm the District Response Advisory

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Team Supervisor. I have an extensive background in response operations through my Coast Guard career, about 16 years now, everywhere from San Francisco, New York City's Deepwater Horizon, the tsunami from Japan that hit a lot of our coastlines, and a multitude of hurricane responses across the AOR, not to mention thousands of recreational boats that have washed ashore, and have been...you know, unfortunately impacted our...our environment on a multitude of different places, and some of the most sensitive locations known. And, you know, we wanted to take this time to come here today to kind of just express to you that it's a collaborative effort, whenever we deal with these...these situations, and we wanted to be a little bit more upfront and say this is how this kind of unfolds. And we wanted to share with you that process, how it unfolds, and...and our timeline when these things unfold, and the law that we are bound by, because we have authority and jurisdiction, and it limits us to what we can and cannot do based off of the situation. Thank you guys for sending us your questions. That was a huge help because we got the initial invite, and we were just kind of thinking, well, how are we going to go into this? We want to make sure we supported you with the best information. So, we spent some time over the last couple...last week or two going through a pretty robust response, and we'll get that to you. We just didn't want you to rifle through it while we sit here and...and go through it because I think it's a good dialectic conversation to have with you guys personally. And then we'll give you the follow up, so you don't have to take notes on all the CFR sites and all the regulation that's out there, because there's a lot. Have you ever heard of CFR? Which I've read many. I think that you'll...you'll find that the Cliff Notes are going to help you. But...so, with that said, we talked a little bit about the prevention mission, and how we...the...the steps that the Coast Guard takes to prevent shipwrecks. And it's not perfect, right? We know that there's challenges associated with commercial entities and recreational entities at the same time. And so, we do have quite a lot of tools in our tool belt, and a lot of resources to support the prevention mission, which is the number one goal, prevent it from happening, right? We want to stop a response from happening, right, so we do our best to prevent. And we have a qualified group of people that deal with commercial vessels, with recreational vessels the best they can, given the extent of the law, and then notifying and responding in an adequate timeline. So, I think the Commander here kind of went through a little bit of those...those initial prevention things. One of the things we want to kind of talk about is the definition of a marine casualty. The definition of a marine casualty is codified in law, and so, this is typically for commercial vessels, they...as part of the Title 46 Code of Federal Regulations. And in there, it state...it defines what a reportable marine casualty is. And this is important for the Coast Guard because this is a notification requirement, right? So, commercial entities, when something like this happens, have to notify the Coast Guard to say that this is going on. We are in the business of response, and lifesaving, and a multitude of 11 different statutory missions, and we don't always get timely information. So, we can only respond to what we know, right. And...and so, we put...there's regulations in place, thanks to Congress, and our...and our laws, that have said that this is...this is what is required to immediately be reported to the Coast Guard based off certain circumstances. For...for a marine casualty, that includes a grounding, stranding, foundering, which is taking on water and about to sink, flooding, collision, allision, explosion, fire, reduction and loss of vessel's electrical power, propulsion, or steering, failure occurrences regardless of cause which impair the abilities to operate...the vessel to operate normally,

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and then any circumstances that impair the vessel's seaworthiness, and finally, an incident involving significant harm to the environment. So, that's for commercial vessels. And then we have another level of things, which is a serious marine incident, which means it's the next level up, like it's one or more death, an injury to a crew member or a passenger, which a person requires special medical treatment beyond first aid, damage to property in excess of \$200,000, actual constructive total loss of a vessel, other than inspection of 46 U.S.C., which is the commercial vessels, and then actual constructive loss of a self-propelled vessel, not subject to inspection, of 100 gross tons or more. So, a lot of our laws are based off of size, gross tonnage for the most part, and...and what they're engaged in. So, if they're engaged in commercial operations, or they're engaged in recreational operations. In addition to that, this does not include authority over public vessels. So, if it owns...it's owned by the State, or it's owned by the...the nation, you know, we don't have the jurisdiction over them for...for that. There's mechanisms within government to already report for that in that piece. It doesn't mean we don't have concern when there's an environmental impact from a public vessel, it just means that the same laws don't apply for reporting and so forth. And then secondly, there are rules for recreational vessels that require them to report certain things, but it's not as robust as commercial. And so...and we'll talk about that here in a minute about what those recreational pieces are. And I...and I...I really want to just kind of hit on this, is that, you know, as...as I get into the second question here, is whether I'll...please describe the Coast Guard's responsibilities and protocols for responding to shipwrecks. You know, it's dynamic, right? That...the...the situations are always dynamic, and they're not the same. And so, there is not a...as we start to get into larger responses, the timelines and things are very...they're fluid and different than they are for a smaller recreational boat, right, because the risk and the danger is not as prevalent as a deep draft vessel that has 100 million barrels of...of crude oil on board, right? So, it's a different type of response. And so, given the resources that we are limited on in the Coast Guard, we have to prioritize where is...where is the concern, what is the risk associated with that concern, and then what is the priority for our partners in the County, the State and...and anybody else that's involved. Our trustees is a major portion of it, so DLNR, thanks for being on the call today. You know, they're a major trustee for...for Hawai'i, and...and as land trustees and...and for water. So, we value those relationships, and we build upon those relationships to strengthen our response capability, and also give us an assessment. So, when we get a notification, the first thing, if it's involving hazardous materials or oil, which most of our vessels have, if you've ever been on a boat, especially a sailboat, you've got a small amount of...of gasoline on board, they still classify as hazardous materials. And so, the law states that for oil, anything that creates a sheen, sludge, emulsification, or discoloration on the surface of the...of the water is considered a discharge of oil by Federal law. And we have a statutory requirement to respond to that in some way or fashion. Not all of it's going to be recoverable. It's going to be a small amount. Sometimes the sheen is just...you can't collect it with any type of mechanical equipment or any type of...of response equipment. Some of it is, and some of it you can inter. So, what happens is we get that first discovery notification comes through, and that's either going to be through a...an official reporting from a commercial source to the National Response Center, or from a recreational boater, who still has an obligation to report that to happen. So, we have the National Response Center that is a 24-hour manned command

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center that answers phones, and they get that report. That report gets typed in, the vessel, who owns the boat, where it's at, what...what's...what's the situation is, the basic synopsis of what the situation is, and then that is immediately disseminated out to everybody at one click of a button. So, it goes out to the County, it goes out to the Fire Department, it goes out to the Coast Guard, and then anybody who has a statutory requirement to respond, all gets the notification at the exact same time, and we all coordinate our responses and such. So, for us in the Coast Guard, especially here in Hawai'i, we have what's called the Incident Management Division. And that division is...is a 24-hour watch center team that is on call. When one of these comes through, their job is to investigate what the situation is. So, we get that initial discovery notification, they will call...it'll go into our command center. Does it have a different component? Is it a search and rescue? Is it a...a marine safety component? Is there a...is there oil discharge? We decipher all that information in our command center, and then a series of calls go out to each of those offices simultaneously, because we...we manage all those operations at the same time, we don't just do search and rescue, and then worry about pollution later, because we want to start getting to the pollution as soon as it's physically possible, because we want to reduce the impact to the environment as possible. So, that's called our Preliminary Assessment and Initiation of Action. So, once that notification comes through, we then get into our preliminary assessment, and we assess the severity of it. Sometimes it's just a small slip, sometimes it's a mystery sheen. It rains some, you know, everybody's gutters. Somebody's dumped something somewhere down the storm drain. We go out and we do an investigation, or we do...or we'd call a partner there to find out what is actually going on. They'll give us an on-scene assessment, and then we go from there to determine if we actually have to respond or initiate any type of response capability. And that's our countermeasures cleanup and disposal phase. And that's whole big phase that we'll kind of get to talk to about in a minute in regards to roles of the responsible party versus when the Coast Guard can come in and help...and help fund the cleanup for that. So...and then finally, we document and we do cost recovery. So, even though we have funds to do it, we...we still put the onus on the owner who caused the problem, the responsible party, to be accountable for it. And there's a whole division within the Coast Guard that's back in D.C. that basically gets a case package together, and then they go through the Department of...of Taxation to make sure that that person can or can't afford the cleanup. And then that's decided by their office, not by the responders themselves. So, there's a lot to it, and...and it all starts with what's called the National Contingency Plan. And the National Contingency Plan is built out of 40 CFR 300. It is how the Coast Guard and...and the EPA respond to these types of incidents around the nation. And then you break it down to region. So, regional response team, a regional area...area committee plan, and then the area committee plan, which is the local region. So, here in Hawai'i, we have an area committee that is designed to plan and develop the plan to respond to types of incidences of oil and hazardous material, and natural disaster. And our...and it's a collaborative plan. So, on our committee is the State of Hawai'i, the Department of Health, and they are the State on-scene coordinator. So, you have the Federal on-scene coordinator, which is a delegated authority to the Coast Guard for coastal responses, and then you have the State on-scene coordinator who represents the State interests on responses, and then depending on the scale of it, if it's a large enough incident, we would typically have a...a County representative on that unified

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command. So, we establish incident management system on large scale events, where we will set up an incident command post, and we'll...based off of your capability, and your...your authority and your resources, we will invite you to be a part of the unified command, or to be a Trustee, or to have a stake in how that response proceeds forward, in terms of what are your interests as...as the County specifically would be. So, that's kind of how the process is. Historically in Hawai'i, we haven't had a lot of think (*knocking on wood*) a lot of good responses that have required County to come into those commands, because those...we're really starting to talk about big deep draft vessels, lots of oil on board, you know, or high scale, you know, national security-type incidents, things like that. That's when those things would kind of play to that level. So, most of our...our...our responses for the most part, have been just with the State and with the Coast Guard as Federal on-scene coordinator, and the State on-scene coordinator. And...but that doesn't mean that it doesn't have to be...like, if...if this a growing trend within the region, we're happy to have you guys on part of it. And we actually would like to, at the end of this too, we're given all of your contacts, so we can bring you into our area committee and to be a part of that regular committee in regards to how those plans are developed. So, that's certainly something that we wanted to take out of this coming here today too, was to make sure that we...we brought you into that pool because we see the trends of...like, especially after a lot of these...these responses, that there's just a little shortage of knowledge in terms of how this all plays out, and we wanted to make sure that we bring you into that greater conversation. Because when we talk about response, we don't want to deal with a lot of these concerns during the response because it adds...it adds time and challenges to the response we're already dealing with. It's bad enough, we already have social media and everything else passing information that is not accurate. And then now we're trying to play catch up with...with our partners, who have a stake, and they...they hear something like that, and...and it...it just causes attention drawn away from the response. So...so, that's a really important component of why the area committee is so important within the...within the region, and why we want everyone to play on that area committee, including the public. It's a...it's a super important component because the public is a trustee to the Coast Guard in some degree, right. You, as the public, and especially here in Hawai'i, we know this is all about, you know, our...our environment, right. And we want to make sure that everybody has a say in that part.

CHAIR PALTIN: Lieutenant Juback? There's four presentations, so we can do like a broader...it doesn't need to be so detailed. And for the Members' information, the questions to the Coast Guard is Granicus item number 1. When we receive their answers, we can upload those as well. But if everyone can hold questions and write them down, because we're not supposed to get into discussion until after test...public testimony. So, just a...a broad overview at first from all the presenters would be great, and then after testimony we can really dive into discussion. Sorry, I didn't mention that earlier.

MR. JUBACK: No, no worries. I...I tried to summarize my notes, and so this is almost the full summary.

CHAIR PALTIN: Thank you.

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MR. JUBACK: And they kind of all tie into the...the different things. So, the next question you had was, what is the Coast Guard's timeline to respond to shipwreck? And that's where I go back to it's dynamic, right? It's all based off the totality of circumstances, it's based off of what the situation is, and it's based off of what parts of the response we're in. Are we in the lifesaving phase, are we are in the response phase, or are we on the...the cleanup phase? And so, it's...it's cyclical, and that is what we talk about with response. And there are requirements for timelines for when a report of a marine casualty needs to be submitted commercially, and when the public needs to submit for a recreational vessel. And for the recreational vessels, it's very minimal. It's when a person dies, the person is injured with...and damage to property more than \$2,000. So, that's when...and that notification for...for recreational doesn't always go to the Coast Guard. That notification for recreational is going to be based off of where your vessel's registered. So, if you have a State registration, a Hawai'i State registered boat, that registration...that notification is going to go to Hawai'i...the State of Hawai'i. If it's...if it's a Federally registered boat, then it comes to the Coast Guard, and that's for recreational vessels. Certain vessels can be Federally registered as much as State. When we talk about our response capabilities here on Maui, we are on an island in the middle of the Pacific Ocean. Resources, while are existent and functional for industry, they are slightly less than you would have on the mainland. But that doesn't mean we don't have contingency plans. And that's what we talked about that area contingency plan that exists, that's available for you to see. When we give you our notes, it has the links for all this stuff, so you can click right to it, and it'll take you right to where you need to go to see that plan. And that's going to spell out kind of what we anticipate putting in place ahead of time. So, we have what's called geographic response strategies that are already predesigned for, like, Kahului Harbor, and we automatically, when an incident occurs, those are the first things that get implemented, and that is designed based off of environmental impact studies, assessments with our Fish and Wildlife Service, with NOAA and NMFS, to determine the impact to endangered species, impact to the essential fish habitat, and then also National Historic Preservation Act. So, any type of historical sites, Hawaiian...Office of Hawaiian Affairs is part of that review as well, so we can determine if there's any impact to cultural sites. So...so, like I said, that's kind of where the resources can be limited. Getting ahold of people to find out if that stuff is there, which can delay response, because we don't want to go in and cause more damage to the response, than if we come right in and just immediately put...boom or drop an anchor down, and there's a monument under the water that we didn't realize was there, or corals, or any of those things are essential to...to the life of the region. And then finally, the fifth question was, please describe the Coast Guard's involvement in responding to vessels operating without insurance and vessels moored illegally. In Hawai'i, there are only nine Special Anchorage areas located in and around the islands of Hawai'i. Eight of them are on O'ahu, and one is in Kaua'i. So, there are no Special Anchorage areas Federally recognized by the Coast Guard around Maui. And then same thing for anchorage grounds. All the anchorage grounds are on Oahu and Kaua'i as well, so again, no anchorage grounds Federally registered by the...there are what's called Private ATON. We call it PATON. Private ATON is regulated and permitted by the Army Corps of Engineers, so they may have something for you there, but we don't have any authority over moorings or anchorages around the Island of Maui that we would be able

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to speak to on that piece. And then finally, operating without insurance. Commercial vessels have requirements to have insurance and have that component. Recreational vessels, that's outside of our jurisdiction, and we don't have any requirement that recreational vessels, unless it's over a certain size, would have to have some sort of liability or insurance coverage for it. And I didn't talk about the Oil Spill Liability Trust fund, but the Coast Guard can tap into that fund if the responsible party does not act, and if...or if the Coast Guard has determined that their actions are not adequate to respond properly. So, that is a Coast Guard managed fund that we can tap into. And if we have hazardous materials, we also could tap into the CERCLA fund, the Comprehensive Environmental Response Liabilities Act fund that cleans up hazardous materials. So, both funding mechanisms that also pay for our partners as well, so they'll pay for DLNR support, they'll pay for the State's response efforts and things like that, based on a statement of work during the response. So, lots of tools, and we're looking forward to building our relationship with the County, so that, you know, you guys kind of understand what's available to you at the County level to help respond to this stuff. And then, you know, building that relationship going forward is our main goal with that piece. I'll turn it back to Commander for kind of closing comments.

MS. HAHN: Thank you. You know, overall, we're just glad to be here to explain ourselves. And I think we...we are running out of time, so we want to save our time for any questions and answers. But we're trying to cover a lot here, and disaster is pretty broad, but it's great to be here.

CHAIR PALTIN: Thank you so much, Commander and Lieutenant. That was more than I ever knew I needed to know, but very interesting. Next up for their presentation, we have DLNR, First Deputy Ka'akua. I'll let you organize your presentation. Thank you.

MS. KA'AKUA: Okay. Mahalo. Is the sound okay from me right now?

CHAIR PALTIN: Yes.

MS. KA'AKUA: Okay, mahalo. Yeah, maybe just some...some opening remarks, and then I'll hand it over to the divisions. First, because we have had a number of vessel groundings recently, I just really want to thank Maui County for your partnership and your assistance for the Nakoa yacht grounding in Honolulu. Councilmember Paltin was there very consistently with our DLNR team, and Mayor Bissen was available on the phone with us, trying to figure out if there was anything that the County could do to assist. MPD showed up and assisted our DOCARE officers. There's been a change this week, as we actually doubled our DOCARE presence on Maui, so that's a very positive step. But we were, you know, really having our DOCARE officers out there 24/7. They were running on fumes, with just a handful of officers on island, so that MPD support was very appreciated and very necessary. So, yeah, just thank you so much to...to the County for your partnership and for having us. I think all of you folks in...in public service, you're...you're here to serve your...your community. And I know many of you are... actually looking at you, all of you are very concerned about our natural and cultural resources as well. And that's the same for our team at DLNR. They're in their positions to protect and steward the resources. So, we acknowledge first, that we

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have...we collectively have a big issue with these vessel groundings. These are changing times too. In our changing climate, we know there's only going to be more frequent storms, and so, as part of our new leadership here at DLNR, we are very open to solutions to working with communities. I think in my experience, I've found the solutions are often right there within the communities. And so, I think today what we want to do is just share the current...our current process for vessel groundings, based on the current law. And then we'll start with the Division of Boating and Ocean Recreation, we'll move to DOCARE, our enforcement officers, and then we'll go to our Division Of Aquatic Resources, and available for questions after. So, Meghan, if you can turn your video on and unmute, and share a little bit about the...the framework that we work in for boating and our process. Mahalo.

MS. STATT: Sure, thank you, Laura. Aloha, Councilmembers. So, I really appreciate you guys having us on today to talk about groundings, and our part within DLNR. Just a little background, we've got about 14,000 boats registered in the State of Hawai'i. We've got about 2,000 or so that are moored in our state facilities and in the offshore mooring areas. And so, the remaining 12,000 or so are on trailers throughout the State. Since 2002, there's been approximately about 490 groundings Statewide. We do keep a list of that, and out of that, the State has removed about 101 of those vessels. In other instances, the owners have removed them themselves, either with insurance, or by themselves. So, all vessels that are moored in our State small boat harbor facilities and offshore mooring areas are required to have \$500,000 in general liability insurance. In about 2019, we went in front of the legislature to ask that all trailered boats be mandated to have insurance. They passed a bill and a law that any trailered vessel over 26 feet would be required to have \$100,000 in general liability insurance at all times. So...and we know that there are times with...with bad weather, that boats do end up coming aground. Just as a note, vessel owners are responsible for their vessels at all times, and that includes during periods of inclement weather. In fact, our Administrative Rule states for the offshore moorings that...13-235-8, that the vessel owner shall be responsible for maintaining the vessel's hardware, except where mooring buoys are installed by the State. So, a lot of the ones that are offshore in Maui, all those moorings are put in by the individuals themselves, and they are required by this rule to inspect the hardware at least semiannually. We do know that sometimes bad weather occurs, and so, when we have a grounding that does happen, we get notified by either the Coast Guard, our own boating staff, DOCARE, or even the community, and we respond immediately with our partners. But we're bound by HRS. 200-47.5 when it comes to groundings. And I'll just kind of summarize a little bit of it. If the owner...if the owner is aground on, say, State submerged lands, a shoreline, or a coral reef, and is in imminent danger of breaking up, and cannot be removed by the owner within 24 hours, that's...they basically have 24 hours to remove the vessel. If the vessel is anywhere on a sand flat, or a shoreline, sandbar, or a mudflat, and not in immediate danger of breaking up, and can't be removed by the owner, they have 72 hours to technically remove it. So, we work closely when a vessel goes aground. If there is any type of fuel, like the Coast Guard mentioned, the Coast Guard...if it's a significant amount of fuel, to ensure that there is no release of fuel into the natural resource, the Coast Guard can step in and Federalize the vessel, and remove the fuel, and charge the owner for that removal. In other cases, we work closely with aquatic resources to ensure

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that the natural resource is protected. If the Coast Guard does step in, again, they'll remove the fuel, we'll work with our aquatic resources, it gets turned...the vessel would end up getting turned back over to the State, and then we would assume control of the vessel based upon that particular statute, if the owner is unable to remove it themselves. In most cases, the owners have insurance. What we've been finding recently is that there may have been a missed payment, there may have been an issue where there was not enough insurance that would cover the vessel. But we do get notified every year during the renewal process that the owner has insurance. They're also...have to present their vessel to us for a vessel inspection every year. So, that's also part of the process. But if we step in for the vessel, and they can't remove it within the 24 or 72 hours, we will step in, and we will hire a contractor to remove the boat, which means we've got to follow the procurement process. Which...sorry, which can be extremely lengthy amount of time, and they have to have the proper insurance. And sometimes that takes the longest for us, because in situations it would be deemed as, like, an emergency procurement. And that usually is the process for us. Once we hire the contractor, and we assume control of the vessel, we have them remove it by any means necessary. But we also ensure that we work with aquatic resources to approve the plan for the removal of the vessel, to ensure the natural resource is protected. And then lastly, once the vessel is removed, all costs and expenses incurred by the State to remove the vessel will be due by the owner of the vessel themselves. And we do go after the owner or the operator of the vessel after we expend all of that...those monies. And that's pretty much all that I have on my side regarding grounding. So, I guess I can turn it over to DOCARE.

CHAIR PALTIN: Thank you. That was a wealth of knowledge.

MR. RODRIGUES: Yeah. Okay. Aloha, Chair, Councilmembers. My name is Howard Rodrigues. I am the Maui Branch Chief Division for...for DOCARE. With me, I have Lieutenant John Yamamoto, he is the West District Supervisor. Lieutenant Ronald Cahill, he is the East District Supervisor. And Jeffrey Kinores, the Admin Supervisor. As far as our role in these events, basically it gets reported to us normally by MPD or the Fire Department, and we document our findings, and we await the...the results from DAR, the aquatic specialists, after they assess any damages that was done. And basically, we forward our report to the prospective division. And normally, in big cases like this, instead of just taking it to the District Court, we'll forward it to our land board, and they'll meet, and they will assess the fine, as Meghan said, to the owner or operator of the vessel. Other than that, that's basically our involvement in this. So, we just make sure there's a report that goes up a chain. Thank you.

CHAIR PALTIN: Thank you.

MS. KA'AKUA: Thank you, Chief. Russell, are you available?

MR. SPARKS: Yeah. Can you guys hear me all right? Sorry. Trying to figure out the new method here. Yeah, aloha, happy to...to be here today. My name is Russell Sparks. I'm with the Division of Aquatic Resources. In our division, our responsibility is managing the living resources in the water. So, all of the discussion about vessels, and mooring, and anchorage, and all that, is it's not really our wheelhouse. But when incidents do

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occur, you know, it's our division's responsibility to go out and take a look at the resources in the area, provide some guidance to DOBOR, and to the salvage companies that are hired, on concerns with resources, and the best route to remove the vessel while minimizing further impact. We operate under a few different Administrative Rules. The...in this case...well, in the case of the Nakoa and the case of most groundings, we have general coral and live rock rules that pertain. And those are...you know, they can be pursued criminally. In other words, enforcement can issue a criminal citation, and/or they can be pursued civilly, in which case we can seek fines to reimburse for the habitat loss to...to the resource...public resource. Usually in bigger cases, we pursue the civil approach, but we could do both...you know, it really depends on the situation. And...and civilly, we have the ability to seek up to \$1,000 per specimen, or per unit of area in terms of live rock. You know, and that...and that's...that's the bulk of our...our involvement in actual groundings. We do, you know, have considerable concern about minimizing impact from vessel groundings, from anchor deployments, and from other types of activities. And in our marine life conservation districts and other marine managed areas, we might have specific regulations to...to better manage use. But in most cases like this, we're...we're simply operating under the damage to coral or to live rock rules. And that's...that's our role, basically, but I'm available for questions, if you have any. Thank you.

CHAIR PALTIN: Thank you, Mr. Sparks. We're...we're holding questions to the end. Thank you.

MR. SPARKS: Okay.

MS. KA'AKUA: And mahalo, Councilmember. That's our quick overview. We wanted to...to keep it brief, so...so there's room for questions.

CHAIR PALTIN: Thank you so much. At this time, we have Tapani Vuori here from the Maui Ocean Center, and I know he has to leave a little early, so I definitely wanted to get your piece in, and then we'll go to Fire Department, then we'll open it up for testimony. Thank you.

MR. VUORI: Thank you, honorable Chair, and the Councilmembers. Thank you for inviting me here today. My name is Tapani Vuori, and I actually wear multiple hats. Today, here, I'm representing Maui Ocean Center Marine Institute, which is a 501(c)(3) organization that was founded in 2016. MOCMI was asked to help and collaborate with the State of Hawai'i on this particular incident that prompted the discussion that we are having here. And our role, really, we worked in collaboration with the State of Hawai'i, you know, on the coral damage report assessment, and then recovery. As of today, I believe we have multiple damaged corals under our care at the facility. You know, Tommy Cutt, who is the Executive Director, unfortunately, he's as of today in Colombia in the International Turtle Symposium, so he was not able to be here today. But I wanted to clarify that a little bit in person myself. Thank you for the Coast Guard for your comments about the collaboration and resources, that is really critical. And when we are dealing with incidents like this, I think it's important what we have seen happening even in this incident, we have multiple stakeholders collaborating, and I

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would urge the community, look at Maui Ocean Center Marine Institute as an additional resource for our community. We...I believe we need multiple stakeholders and all hands on deck. Sometimes these events can be even much larger. We've been fairly fortunate so far. Coast Guard, thank you for clarifying the funding. Sounds like the funding issue is pretty clear, so that was gratifying to hear. Many issues that I see happening at the State level, I'm also part of the Ocean Task Force at the State level, and things always usually come down to the funding, so that is very nice to hear, so thank you for sharing that. That's really all I wanted to share. I was asked to attend a pre-discussion meeting last week, and there were a few questions that came upon as a result of that conversation, and based on the public comments that the boat owner in this particular instance had, seems like there is some opportunity for us as a community to communicate these expectations and rules and regulations a little bit clearer. Seems like there was some confusion about that. So, anyway, I'll leave it at that. So, thank you for hearing me out. Thank you.

CHAIR PALTIN: Thank you, Mr. Vuori. And just to clarify, for the specific Nakoa grounding, the Maui Ocean Center Marine Institute collected a lot of the coral fragments, and they're regrowing it to try to replant them at...at Honolua, in case that wasn't clarified earlier. And I think our...our last presentation, we have Assistant Chief Lindo, and there's some questions on Granicus that we had pre-sent him. Aloha, Chief Lindo, thanks for joining us.

MR. LINDO: Hello, everyone. Aloha, Chair, Councilmembers. Can you guys hear me good?

CHAIR PALTIN: Yes.

MR. LINDO: All right. My name is Hanale Lindo, Assistant Chief of Operations for the County of Maui, Department of Fire and Public Safety. Absolutely great to be here. My presentation should be really short. Basically, my division is the operations of the Department, which is our operational stations on every single island within Maui County, as well as the Ocean Safety Bureau. We have standard operating guidelines, rules and regulations, as well as a manual of operations, that help guide our emergency response to every type of emergency that we go through. When we respond, we have incident priorities that help to...it is used when we're forming our decisions, yeah. And those incident priorities are the same in every single incident. They are life safety incidents, stabilization, and property conservation. And then what we do is we focus on the first priority, which is life safety to our personnel, first of all, and then the public. And we end up completing the task of life safety by...by just getting the people out of harm's way, and making sure our personnel are good, and...and...and they're right, and then taking the public out of the way. Once we settle life safety, our next priority is incident stabilization, and that comes with, you know, removing any type of hazards. So, for this case, as far as vessels running aground and these maritime incidents, basically we would have to receive a...a call for response. Either our first in-district company would respond to the incident, and any other response vehicles would be based on...on what exactly is going on. So, let's say there's a boat in distress that ran aground, and there are six people on board. We would probably send an engine and a rescue unit to respond, as well as ocean safety. Once we get those people off, we would

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take a look and determine if there's any type of hazardous leaks. If there is none...or if there is, we'll try and do our best with what we have to try and stop that. If there is none at all, and everything looks as safe as possible, then we would make sure that we communicate to DLNR and U.S. Coast Guard, whereby we would pass on a transfer of the incident over into their care. That's pretty much where it would end, as far as response for us. I think that's all I got.

CHAIR PALTIN: Thank you, Chief Lindo. That concludes our opening statements and presentations. At this time, I would like to open it up for public testimony. And we do have a couple of testifiers on the list, so I will read the instructions. Oral testimony via phone or videoconference will be accepted. Please note that if you are signed in, you are on the list to testify, even if you did not request to testify. Please let Staff know in chat if you are signed on and do not intend to testify. Testifiers wanting to provide video or audio testimony should have joined the online meeting via the BlueJeans link or phone number noted on today's agenda. Written testimony is encouraged, and can be submitted via the eComment link at [mauicounty.us/agendas](http://mauicounty.us/agendas). Oral testimony is limited to three minutes. If you are still testifying beyond that time, I will kindly ask you to conclude. Unless you want to testify anonymously, please clearly identify your name, organization, and items you would like to testify on in the chat. We ask that you state your full name, but if you prefer to testify anonymously, Staff will identify and refer to you as "Testifier" and assign you a number. Please also indicate...oh, in this case, there's only one agenda item. You may indicate in the chat if you do not wish to testify. However, chat should not be used for discussion or comments. Please be courteous to others by turning off your video and muting your microphone while waiting your turn to testify. Once you're done testifying, or if you do not wish to testify, you can also view the meeting on *Akakū* Channel 53, Facebook Live, or [mauicounty.us/agendas](http://mauicounty.us/agendas). Thank you all for your cooperation. Before proceeding, may I please request that everyone keep their microphones muted until it is your time to speak? Decorum must be maintained at all times. Any person who behaves in a manner that disrupts, disturbs, or impedes the orderly conduct of any Council meeting can, at the discretion of the presiding officer or a majority of present Councilmembers, be ejected or banned from Council meetings, or if participating remotely, muted or dropped from the meeting. Examples of disruptive behavior include heckling, shouting, use of profanity, threatening or slanderous remarks made to any Member of the Council, Staff, or general public. It will be considered a breach of decorum for members of the public to use the chat for anything other than testimony sign up. Staff has been monitoring individuals joining today's meeting by phone and by video, and we'll do our best to take each person up in an orderly fashion. At this time, we will call on testifiers, wishing to testify on our only agenda item. And the first one I see is Shelley Ha'i in...of the Native Tenant Protection Council, and she'll be joining us in the Chamber, to be followed by John Carty, and then Sarah Ricer, and then Tiare. Aloha, Ms. Ha'i. Welcome.

**. . . BEGIN PUBLIC TESTIMONY . . .**

MS. HA'I: Is this where you testify?

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CHAIR PALTIN: Yes, and if you can lower the microphone, that would help our cause.

MS. HA'I: Hi, aloha. My name is Shelly, I'm from the Ha'i Navigator Ohana, and I'm here today to discuss about, in particular, maritime disasters, which is on the agenda. I wanted to...I think this is a great forum to discuss this issue so far as preventing a major disaster for Hawai'i, because it was announced in the *Hawai'i Tribune Herald* last, I believe it was in June, the Ocean's Day, that they're planning to do ocean mining to start beginning the seabed mining, you know, basically two years from now, so that leaves us about a year and a few months. The International Seabed Authority, which is under UNCLOS, you know, the Law of the Sea, they have taken over basically becoming an international mining conglomerate. The problem for Hawai'i is that we are the closest coastal impact to 2,000 miles of mining, which has not started yet. They've done ecological disturbance test minings and things like that, but we're looking at from Baja, California area to 2,000 miles of seabed to about 300 nautical miles southeast of the Big Island of Hawai'i. So, according to scientist Pierre Flament and others, it would...this falsely angulated sediment generated would be continual for over 30 years, if...some of it may never settle. It'll reach the west-facing shores of the Big Island of Hawai'i, which is Kona, and move up the Hawaiian island chain into our stronghold of coral. It causes smothering, and basically after seven years, areas that were mined, to see what would happen, they never were able to reestablish themselves. And we've had a lot of problems with bringing in from the Groote Eylandt BHP company tailings, toxic waste to do experiments. So, that's where we ended up calling the Coast Guard for help in an incident report, actually several. So, right now, we're...we're looking at the London Sea Dumping Treaty, which you cannot dump on the surface. So, now they're looking at dumping on the sea floor in subterranean disposal systems. So, what that does is, you...you have to include what's called the benthic storms. So, there's an environmental guideline that came out, so just a draft from the International Seabed Authority, formerly working with Patsy Mink in Congress. And so, our case that we filed from the Hawaiian Islands is case number 17. And you can find them on file, it's with the Seabed Disputes Chamber in Hamburg, Germany. So, the United States of America, they are just observer...observer . . .(timer sounds). . . status. But...so I guess I'll just round it up here. Basically we have the chance to prevent a major disaster, if not the destruction of life as we know it, and we may only have a small window to do so. So, I'm just hoping...and I...I also work with the International Ocean Task Force Congress of the Pacific, so with navigators just all around. So, we want to preserve our sustainable development goal, U.N. goal number 14, or your sustainable indigenous resources and whatnot, and basically just save Hawai'i from the mining. And I'm really happy that you're all here today, that I'm able to express that. Thank you so much.

CHAIR PALTIN: Thank you so much, Ms. Ha'i. Members, did you have any questions for the testifier? Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. So, thank you very much for being here. Never heard of any of what you're saying. And are you part of an organization? Are you speaking on behalf of yourself, and...

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MS. HA'I: Well, yes, ma'am. I'm with the Native Tenant Protection Council, I'm a cofounder. I'm a former worker of the County of Hawai'i, until I went back to college to take environmental science and international law. So, I also work with Native Hawaiians, Kānaka Maoli in particular. And I just have to take this time to say there is a big old treaty with a golden eagle seal on it between the United States of America and the militarily occupied Hawaiian Kingdom. So, the treaty allowed the military to come in and train and to grow food. And so, according to my international law teacher, Dr. Philip Taylor, who worked for the Security Council, he's basically saying that there is a chance to sort of render the problem, make more friendly relations, and in the end, we can all...we can all win, we can all benefit. There's more things to that. But so far as...we already presented that treaty to the Navy, and they were actually surprised, they didn't know it even existed. So, I thought that that's a good thing. And OHA had a meeting March 8th, and that basically they have to look at the inventory of all the Crown Lands. They have to actually come up with a...with a number, which right now everyone said we're just operating on good faith. But what has not been included in this is actually the submerged lands, or actually submerged Crown Lands. And we're sitting right here in Wailuku, which is 24,000 acres of Crown Lands. So, we can definitely work this out. And as an American, I...I feel like we can maybe do dual citizenship, or something, and keep all the services, you know, keep things going for the people. But we have to protect the host culture. We have to protect the Hawaiians, the Kānaka Maoli, and if we don't do something, life will never be the same, because it's...it's permanent damage, this ocean mining. And, you know, Nainoa Thompson and a lot of folks, so they went basically on an environmental voyage around the Pacific. So, we're encouraging everybody go out, take...take underwater photos of your...your favorite spot, like Sylvia Earle with NOAA. She went back to Coral Bay, and there was a...a mining track. Everything was smothered. And there is a way, I believe, to clean that up, you know, and maybe suck up the falsely angulated sediment, but the main thing is prevention. And right now we're on a, what they said, a biblical amount of...of fish, you know, fish larvae, you know, that we could make the comeback. And now we have the whole issue in the Atlantic Ocean with all the seaweed. It's full, it...it's creating a big problem. So, the sediment, if it's dumped in the...especially the process things, then there could be a major algae bloom here like over there. And we got to preserve what we have here because it all circulates and joins. So, if they're having a hard time there in the Gulf of Mexico, we need to look at what assets we have here that...because it's all connected.

CHAIR PALTIN: Thank you so much. Members...Member Rawlins-Fernandez has a question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Ms. Ha'i, for your testimony. I think we might need her as a resource. So much expertise.

MS. HA'I: I have the time to volunteer, anytime. And I have documents to back up what I'm saying.

COUNCILMEMBER RAWLINS-FERNANDEZ: I would love to see it. Mahalo, Chair. Mahalo.

MS. HA'I: Thank you.

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CHAIR PALTIN: I...I had one question.

MS. HA'I: Yes.

CHAIR PALTIN: What is the purpose of the mining that they're doing?

MS. HA'I: Well --

CHAIR PALTIN: Briefly.

MS. HA'I: Okay. Part of it, they were saying they got to go after, like, rare earth elements, but they also in...they're coming up with ways to do laptops, phones without the rare earth elements, so that's becoming kind of moot. So, you're looking at these manganese nodules. And thank you for asking that question. You have the crust of the manganese, you have the manganese nodules. Now, these have been there for over 80 million years. At the core of a lot of these are actually prehistoric shark teeth. And they have a...a bacteria that's on there, and it grows and it accumulates all the metals and different things out of the water. But what no one has ever actually researched is, there must be a reason why these manganese nodule provinces are there. And I believe that it keeps the critical ionic balance in place, and that if you remove these things, then there won't be the same balance. It won't...this is 80 million years of...of ecosystem. And so, basically there are issues that...when you use the ocean, you're supposed to be doing...it's supposed to be for peaceful use for the benefit of all mankind. And I do know, like you mentioned, like problems with boaters, and insurance, and all these things. So, DOCARE, aloha. Maybe you all remember me from a long time back. But the thing is, it's...the bank account has never been established because there's--and correct me if I'm wrong--there's supposed to be 20 percent of ocean revenues being deposited into a bank account for basically Kānaka Maoli Native Hawaiian fishing boats, nets, insurance, whatever. But they've never collected the 20 percent, there is no bank account. So, please set up that bank account. Start collecting. I know it's...it's hard after COVID, everything, but to...to start collecting that money, put it in a revenue. And the other thing is that if you're protecting the resources of the Kānaka Maoli in particular, it...it...I thought I knew what a native tenant was. I'm still finding I'm...I'm learning more, you know, with every Kānaka Maoli that I'm meeting --

CHAIR PALTIN: Thank you, we do have some other testifiers.

MS. HA'I: Okay.

CHAIR PALTIN: Maybe I...I can speak with you after the meeting.

MS. HA'I: And just to protect the ko'a, the Ōpelu feeding grounds. Because I've had a lot of calls about that, so...

CHAIR PALTIN: Thank you so much.

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MS. HA'I: Thank you. Thank you so much.

CHAIR PALTIN: Next up, we have John Carty on BlueJeans, to be followed by Sarah Ricer, and then Tiare. John Carty, it's your turn to testify. You may unmute yourself.

MR. CARTY: Okay.

CHAIR PALTIN: Okay. Aloha.

MR. CARTY: Do you have me?

CHAIR PALTIN: Okay. Yes.

MR. CARTY: So, great presentation today. I'm John Carty from the Save Honolua Coalition. First Deputy Ka'akua, great presentation, and just wanted to say thanks for answering a lot of the questions that we had. And thank you for getting the yacht off the reef. Eternally grateful for that. And thanks for all the DLNR officers that worked overtime. I just wanted to make a quick point. There was...Russell was talking a little bit about justice, or ways to...the way that the responsible party can be held accountable. So, the Save Honolua Coalition has been getting a lot of information from the community about...really concerned whether he...the...the yacht owner and the company is going to be held responsible. So, I...I wanted to pass that mana'o on, that the community seems very concerned about that. But there's also a State bill that just got proposed called HCR 148, and so, if anybody wants to weigh in on that, there's actually a State bill to encourage accountability. So, that's...that's my thoughts.

CHAIR PALTIN: And...oh, we have a question from Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo, Mr. Carty. I was just curious, is the Honolua Bay some kind of marine reserve? And is...or --

MR. CARTY: Yeah.

COUNCILMEMBER SINENCI: -- is mooring allowed in the Honolua Bay Area?

MR. CARTY: So, it's a marine conservation district. Mooring is allowed. It was set up for there to be three boats at a time, that tie up to a bow line and the stern line to moorings. So, there's six moorings in the bay, and you're supposed to have three boats at a time that can be there up for two and a half hours each. That applies to commercial vehicles...or excuse me, commercial boats. And then non-commercial boats are still allowed to go in and drop anchor. But there is no overnight mooring allowed.

COUNCILMEMBER SINENCI: Thank you, Mr. Carty. Thank you.

CHAIR PALTIN: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I quickly looked up HCR 148,

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and it's a...a resolution, not a bill. House --

MR. CARTY: Oh, thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- House Concurrent Resolution...yeah, no problem. And it's...the title is, Requesting the Department of the Attorney General to Investigate, Review, and Pursue All Applicable Claims...Civil Claims and Criminal Charges Against the Owner and Commercial Operator of the Yacht, Nakoa. Is that the one?

MR. CARTY: That's one.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for sharing that with us. Mahalo, Chair.

CHAIR PALTIN: Thank you. Any questions for the testifier? Seeing none. Thank you so much for your testimony. Next up, we have Sara Ricer, to be followed by Tiare, and then Spencer Headley. Sarah, it's your turn to testify.

MS. GRECO: Chair, it looks like she's no longer connected to the meeting.

CHAIR PALTIN: Oh, thank you. Next up, Tiare, to be followed by Spencer Headley, and then we have Randy Cates and Kekai Keahi. Tiare, it's your turn to testify.

MS. LAWRENCE: Aloha, Councilmembers. I just wanted to give props to the County for their efforts at Honolua Bay, they're very responsive. Props to Mayor Bissen and his Administration, and a huge props out to Councilmember Tamara Paltin. She spent a lot of time out there, and was very diligent in trying to get the boat removed, so I just wanted to aloha the County, take that time to aloha you guys. You know, growing up in West Maui, seeing beached boats is nothing new to us. It's been a issue...it's been very frustrating for many years. But I would say like over the last decade, it's gotten much, much worse, and I don't know if it's because of climate change, or the storms are getting worse, or what, but we're going to see more of these type of storms. And so, I feel like there needs to be better rules put in place. And I bring this up because of the way the response was by some of the owners. I don't...I have a hard time just letting an owner come in and just...you know, they have 24 hours, or 48 hours, or 72 hours to remove their boat, without any...any rules that will help to prevent impacts to our resources. For example, what we've seen in Lāhainā happen in this past week, where like, you know, the owner hired people with no...absolutely no experience in salvaging boats, to just basically try to rip the boat off the reef. That what happened in Māla, and then there was another one in Lāhainā just in the last, you know, five days, and it's still there today. And so, I...I...I think there needs to be better rules in place to avoid impacts to the reef, especially in...when a beached boat happens, I feel like the first thing any owner or any entity should do, is to have the fuel and batteries removed immediately. And what happened at Māla with the recent beached boat that ended up in front of the reef in front of 'ohana Keahi house, was there...they waited too long to go and have things removed, and what happened is there was fuel leaking right onto the reef. And if you know the families out at Māla, you know that they are subsistence fishermen. You...you

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have Auntie Momi there harvesting limu right out front her house, Tamara knows this. The Keahi 'ohana, they're hardcore fishermen, they live off that reef. And so for a long time, whenever these beached boats happens, it has major detrimental impacts to our reef ecosystem. And so, something needs to be done to address this. And so, one thing that I would like the County Council to consider today is to consider passing a resolution to encourage the State DOBAR to open up rulemaking for Māla. Because...so the issues of beached boats isn't the only problem down at Māla. There's a lot of issues you might be aware of it, that has been in the media . . . *(timer sounds)* . . . in this last year. And you know, I'm just glad to have the time to testify today. And mahalo for your due diligence in addressing this issue.

CHAIR PALTIN: Thank you. Members, questions for the testifier? Seeing none. Thank you for your testimony. Next on the list we have Randy Cates, to be followed by Kekai Keahi, and then Faith Chase. Randy Cates, if you're wishing to testify, it's your turn to testify.

MR. CATES: Hi. No, I just listening, and I...I have no questions. Thanks.

CHAIR PALTIN: Thank you, Randy. Thanks for all your help. Next up, we have Kekai Keahi, to be followed by Faith Chase.

MR. KEAHI: Aloha, my name is Kekai Keahi. I come from Māla village. I don't want to take anything away from what happened in Honolulu, because it...it was a tragedy. But I kind of take offense to what Meghan with DOBAR and some of the officers said, because being that we live at Māla, right on the beach, from the back yard, you jump right into the ocean. In my lifetime, I'm 50 years old. I can say we might have seen close to 50 boats come offshore there. And not one time has the State or anybody, or even the County, you know, addressed the situation. I was thinking, you know what, this place is a volatile area, and I guarantee you, without a benefit for doubt, that you can go and see the State people and come up with...with the data, because Māla has seen more shipwrecks or boat wrecks than any other place in the State of Hawai'i, and I guarantee that. I guarantee it. We get two or three boats that come up a year. One year, we had almost ten. I have the pictures of all them, we had the fuel spillage, hydraulic fluid spillage. To this very day, you go back to Māla, and you still find keels from the old wrecks, and cable, and then the...the sails that we pulled out of the water. When the State pull up the boat, they pull up the boat, they don't go back and put out the rubbish that's left behind. We still get one engine on the beach, we still get one boat that's there, with one keel on the beach, we got couple keels out on...on the reef, and I kind of pissed off that Māla has never, ever been heard. We went to the State quite a few times to designate Māla as a no-mooring zone, just because of the volatility of the area. We get one heavy south, we get one heavy north, and especially when the Westerlies come through, we going see boats. And sad to say, we...we so used to this. What went piss us off, after that whole incident in Honolulu, and all of a sudden everybody's in uproar, the State was there doing their thing. Down in Māla, the fuel spilling on the reef. We ask...we ask the...the State to come down and do something about it, and the guy says oh, I no see no fuel. But we get video of the fuel slick on the water, on the reef at Māla, and then they walk away and left the boat as is. So, you know, you cannot say, oh, we did such a good job for one place, and don't give a shit about the other place. In my

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lifetime, I only see one boat come up in Honolua, but in front of Māla, I can guarantee it's close to 50, and nothing being done. If the place is a known area for having these kind of wrecks, then it should be a no-mooring zone. And we've been pushing that with the State, and they close their eyes to us, and they close their ears to us, and it continues to happen every year. I don't know how much more we've got to scream and yell, or get to the point where, you know, we got to start fighting. And when it's come time to move those boats, the worst thing that the State does, is they never consult the community from the area. They had...they had . . . *(timer sounds)*. . . a company. I like finish up. They had a company with one cable about 300 yards down the beach, and they was going drag the thing 300 yards over the reef to get to the area where they was going pull 'em up. You know what happened to that guy? We told him for beat it and get the hell out of there because you're not going to damage our reef like that, and the boat is still there. They've got to find out some other better way, talk to the community, so that we not making more damage. But Māla has seen, I guarantee you, go find out right now, more shipwrecks than any other place in Hawai'i. Guarantee that.

CHAIR PALTIN: Thank you, Mr. Keahi. Members, questions for the testifier? Seeing none. Thank you for your testimony. Next up, we got Faith Chase, it's your turn to testify. To be followed by someone --

MS. CHASE: Aloha.

CHAIR PALTIN: Aloha.

MS. CHASE: Aloha, Chair Paltin. Nice to see you Chairing this Committee. Thank you for bringing this topic to the forefront of our attention. I caught a social media post of a young man that was early on ready to help this boat when the tide had come back up, and I had learned from his sharing, his very frank sharing, that DLNR had threatened to fine him, told him to back off, and it actually worsened the situation. So, I guess without knowing the whole breadth of the subject, but seeing that very frank sharing from this young man, I would just like to implore to the DLNR officers, who I haven't always really terribly agreed with, and I...I have to admit I'm a little bit nervous of 40 new officers coming into the...into...onto the scene in different areas across Hawai'i, that you actually take the intrinsic, sort of like resident knowledge, and when people want to help, and go to those people that actually have some sensibility or a familiar sense of place. I was kind of disturbed by that. So, I don't know if anybody wants to comment. I don't believe he would make such a public post without being...you know, that wasn't correct. But I am...I am worried about that, and I would just want to express to all the DLNR officers and representatives that are on today that, you know, that level of compassion and compatibility, and that reciprocal relationship, you need to really hone in and up your game on that, because you have a...you have a...not the best record on supporting people of the place. That's all. Thank you.

CHAIR PALTIN: Thank you, Ms. Chase. Members, any questions for the testifier? Seeing no questions, thank you for your testimony. The last individual on the list is a person with the letter W. W, it's your turn to testify, if...if you'd like. Seeing no response, we'll do a last call for testimony. Last call for testimony. Anyone wishing to testify at this time,

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please unmute yourself and indicate that you'd like to testify in five, four, three, two, one. Members any objection of closing public testimony and accepting written testimony into the record?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Thank you.

**. . . END PUBLIC TESTIMONY . . .**

CHAIR PALTIN: We usually take a break at 3:00, but we need to, per the new Sunshine Law, go directly into discussion. So, is there any burning questions before recess for any of our resources? Or...or I guess would a comment suffice?

MS. GRECO: A comment suffices. I just want to also note, Chair, that the Coast Guard has some time restraints. I don't know if you want to let the Committee know what time you have to leave?

CHAIR PALTIN: What time does the Coast Guard need to leave? No later than 3:40. Okay. So, any questions for the Coast Guard at this time? Member Cook.

COUNCILMEMBER COOK: It's for...thank you for being here. It's so impressive to see the depth, the breadth, the magnitude. You know, I've always...I've seen the Coast Guard, seen the boats, seen the planes, and I've personally always thought the Coast Guard was one of the coolest services because it was kind of like military, but also, you know, marine and...and local. I'm just...I don't really have a question. I just wanted to basically say how impressed and grateful I am, and I feel a lot better with you being there. Thank you.

CHAIR PALTIN: Thank you. I have a question about when you said there's nine special anchorage sites. What defines a special anchorage site?

MR. JUBACK: So, based off of regulations, a special anchorage site just allows vessels to not have lights on at night in those areas. So...and they're typically like marinas that have been designed around O'ahu and Kaua'i, and...and they're just listed within the...the CFR as those areas. So, it just allows navigators to know that this is an area where you might find boats without lights on.

CHAIR PALTIN: So, a special anchorage site could have boats that don't have lights on, but all the rest of the boats on the water at night should have at least the lights...some lights?

MR. JUBACK: Yeah, an anchoring light or...or such, unless it's in a special anchorage area.

CHAIR PALTIN: And if they don't, we call you?

MR. JUBACK: Please.

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CHAIR PALTIN: Okay. Got it. And...and what was that number again?

MR. JUBACK: So, you can call our Sector Command Center, they're 24-hour manned, and it is--let me just get to the...make sure I have the right one--oh, hang on, I'll get it from my notes over here. I'll get it for you.

CHAIR PALTIN: Okay.

MR. JUBACK: Second. Okay, here you go.

MS. HAHN: (808) 842-2600.

CHAIR PALTIN: Good to know. And with that nugget of information, I see Councilmember Rawlins-Fernandez has a question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Real quick since it kind of dovetails off of your question. So, these anchorage sites, I know you said that they're off O'ahu and Kaua'i, none on Maui Island? I guess I shouldn't just assume, but there are none on...off of Moloka'i and Lāna'i as well?

MR. JUBACK: Correct. Yeah. Just, I think there might be two in Big Island, but I can double check that for you in the CFR. But there are definitely none in Lāna'i, Moloka'i, or Maui.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, because we're Maui County, and you're speaking specifically to specifically to Maui Island, so I wanted to make sure. Mahalo. Mahalo, Chair.

CHAIR PALTIN: Member Sinenci, followed by Member Cook.

COUNCILMEMBER SINENCI: Just a follow up. Is this just for Federal...for Federal registered boats?

MR. JUBACK: Correct. Whatever the State law would be, is up to the State. But typically, it's a requirement of law to have anchorage lights on if you're anchored, by Federal law. So, if it's not a special anchorage area, and you don't have lighting on it, and that's a Federal requirement, right? So, it would be a violation of Federal law.

CHAIR PALTIN: And I'm sorry, to clarify, can you go over it...the...those lights? Is it a red and a green, and where they're supposed to be on the boat?

MR. JUBACK: It's...it's just based out of the...the navigation standards manual...so, depending on the type of vessel, what it would be. But typically, if it's like a sailboat, they'll have a white all round on top, and then no port and starboard, because the port and starboard, red and green would be they're on their way. So, you wouldn't want that. And then they may have...may have to have a stern light as well, depending on the size of the vessel.

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CHAIR PALTIN: Thank you. Member Cook.

COUNCILMEMBER COOK: Follow-up question. So, the anchorage is principally a navigational area, like identifying where there is an anchorage? It's not necessarily the grounding, or the...it's...it's...it's for navigation. It's letting people know it. So, that's a designated area that's on a map, and somebody can know we can anchor there, but when we anchor there, this is the criteria. So, people...our boat is visible...our ship is visible at all times, and it doesn't become a navigational hazard, correct?

MR. JUBACK: That's exactly why they need to mark these already on the chart, so that way you don't have a collision at sea, right. And that if you're transiting through there, you would transit with caution, knowing that there may be vessels in the area without lighting on. And that's because most of these boats in these special anchorage areas are not manned, right. So, they're not...it's not somebody's sailboat in Ke'ehi Lagoon, for example. You know, they...they moor all their boats right there on the mooring balls right outside Ke'ehi Lagoon, not at a slip, so that's why it's a special anchorage area.

COUNCILMEMBER COOK: One more follow-up question?

CHAIR PALTIN: Go ahead, Mr. Cook.

COUNCILMEMBER COOK: So, is the reason that Maui County doesn't have them is we don't really have any anchorages?

MR. JUBACK: That's a...that's a good question. There is a process to get that into the Federal register, if that's something you guys had, and needed. But as of right now, there's been no requirement...no...I guess, no requests in the past from...for...for doing so.

COUNCILMEMBER COOK: Okay, thank you.

MR. JUBACK: And probably because most of your marinas are managing it themselves.

CHAIR PALTIN: Thank you. And that brings us...oh, right to 3:00. If the Members don't mind if we take a ten-minute recess? Pause for the cause? We'll return at 3:11. Meeting in recess. . . .(gavel). . .

**RECESS:** 3:02 p.m.

**RECONVENE:** 3:12 p.m.

CHAIR PALTIN: . . .(gavel). . . The time is 3:12, and will the DRIP Committee meeting return to order. Thank you all for that important pause for the cause. And we left off with Member Sugimura having a question. Member Sugimura.

COUNCILMEMBER SUGIMURA: So, that one testifier that spoke about moorings in Māla Bay, is that bay? Māla? Māla Wharf?

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CHAIR PALTIN: It's --

COUNCILMEMBER SUGIMURA: Māla Wharf.

CHAIR PALTIN: Yeah.

COUNCILMEMBER SUGIMURA: So, is that something...is it the concern of the Coast Guard?  
Is it DLNR, or what...what?

CHAIR PALTIN: I think it would fall under DLNR, DOBOR probably.

COUNCILMEMBER SUGIMURA: Oh, not...not --

CHAIR PALTIN: But they're also on the line, available as resources. We can ask them, you know, what...what...how many legal moorings are there outside of Māla, or...or whatever you want to ask.

COUNCILMEMBER SUGIMURA: Are they there?

CHAIR PALTIN: Yes, they're...they should be on the line. So, I mean, go ahead and ask your question, and...and hopefully they have an answer for you.

COUNCILMEMBER SUGIMURA: Thank you very much. So, one of the testifiers had a concern about moorings at Māla Wharf. And so, wondering how that can be changed? I guess he was saying that it was a problem. Or do you see it as a problem?

CHAIR PALTIN: Ms. Statts.

MS. STATTS: Hi, Meghan Statts, with the Division of Boating and Ocean Recreation. So, Māla is a designated offshore mooring location, as spelled out in Hawai'i Administrative Rules. In order for that to change, there would be rulemaking, and then if that was the case, we'd have to go through public hearing, through a process, through the Board of Land and Natural Resources, and then there would have to be a location for all those boats to move to, if that's the case.

COUNCILMEMBER SUGIMURA: Wow. So, how many moorings are allowed there...there?

MS. STATTS: I don't...there is nothing specific in the rule itself. It's just how many vessels can fit safely within that area. So, offhand, I don't know how many are in that designated area.

COUNCILMEMBER SUGIMURA: Interesting. So, in order to make that change, it would be through the State legislature to allow you to do it...DLNR to do it? Or can you just do it if you want to...do, since it's a --

MS. STATTS: No, we would have to follow Chapter 91, which is the rulemaking process.

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COUNCILMEMBER SUGIMURA: Okay. Okay. So, sounds like a future project, but it's causing a problem, it sounds like, from that one testifier. And then I just want to just say that, when I was growing up, my parents used to always say, we're going to call the Coast Guard. And I used to think okay, now I know why. So, thank you for your...your presentation. Thank you.

CHAIR PALTIN: Thank you, Member Sugimura. I got Member Sinenci, to be followed by Member Kama, and then Member U'u-Hodgins. Go ahead, Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. And I did want to mahalo you to...for having all of these resources here today. We've been trying to get all of these different agencies under...in one meeting for years, so kudos to you. And...and I guess we've...and to that, you know, we've been hearing that each agency operates under you guys' own set of rules. So, when it comes time for the County or County residents to try and engage you in...in these different...we don't know who to...one, we don't know who to call. So...and oftentimes, one agency will be pointing to the other agency saying, hey, this is not our jurisdiction. Coast Guard is...is outside in open ocean, DLNR is up to the high water mark. So...so my question is, how do you guys communicate interagency and, you know, like, say, for instance, Lieutenant Christina, if there's, like, a death on the ocean, at what point do you...do you investigate on your own? Do you bring in the...the Maui Police Department? When does interagencies come in and work together?

MR. JUBACK: I'll speak to the initial piece for pollution and hazardous materials. The Coast Guard has authority for hazardous materials and...and oil discharges, and also has its navigation. So, when I start talking about the channels, regulated navigable channels, and then actual discharges, so we're in the coastal zone. So, anything that kind of impacts the shoreline could be determined to be a hazardous material, oil spill, jurisdiction. When we start talking about on land, that's going to be the EPA, right? So, that's an inland spill versus a coastal spill. So...and that goes all the way out to 200 nautical miles, from shore to 200 nautical miles, for the Coast Guard, or a potential to. So, it could be a tributary to the ocean or things like that, all are within the Coast Guard's jurisdiction. If it has the potential to get into the coastal zone, we have jurisdiction over it. Where it differs, is...is...is it's just jurisdictional boundaries are going to be codified in the CFR, the Code of Federal Regulations, 40 CFR 300. Then I'll let him to talk too.

MR. CHRISTINA: Thank you. If there's...if there's a commercial...speaking specifically to your question about the Coast Guard and Maui PD, if there's a death on board a vessel. If there's a commercial death...commercial nexus, so a commercial vessel's involved, the Coast Guard is going to do an investigation. And we've worked closely with Maui PD. I can think of at least two in the past year, deaths that have occurred on...on commercial vessels. So, we have good communications with them, and...and we're always trying to strengthen our...our partnerships in the County.

COUNCILMEMBER SINENCI: Follow up. If it includes firearms or anything like that, when do you include, you know, the County personnel as part of that?

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MR. CHRISTINA: That's not something that I have specifically dealt with, with firearms. That's...that's something that might, you know, be a little more criminal in nature. And...and that's getting a little bit outside of what we do at Marine Safety Team Maui. So, I would reach out to some of our partnerships, and maybe...maybe something else had to add to that?

MR. JUBACK: *(Audio interference)*. So, our Coast Guard station out there, out here on the Maui, they have law enforcement authority. So, they partner with local law enforcement. Maui PD, Honolulu PD. We register file...Federal firearms. There's legislation for what firearms have to be registered. If they're illegally registered, then we would handle that accordingly. And typically, we have great relationships with our State PDs, and with our local county PDs, and...and basically, we would transfer that crime to the...the local law enforcement, once we found it onboard a vessel.

COUNCILMEMBER SINENCI: Oh, yeah, we don't...we don't have U.S. Coast Guard out in East Maui. So, for you to...for you to come out there, it's going to take, what, six hours for you to come out there? At what point do you enlist the fire...we do have a fire department out there.

MR. JUBACK: We...we do have Coast Guard there. Well, on shore, it's a little difficult, takes some time to get there. But when we talk about on the water, we actually have patrol boats that patrol the Hawaiian Islands all throughout. Every day, there's a...a cutter out there doing some work for law enforcement capability. So, if it's a significant law enforcement response that's needed, we can support our...our...our police departments in the missions that way.

COUNCILMEMBER SINENCI: Okay, thank you. Chair, did Deputy Lindo want to respond?

CHAIR PALTIN: Assistant Chief Lindo, did you have any response for Member Sinenci's question?

MR. LINDO: Hello, Member Sinenci. Is this in regards to...what you just spoke, as far as Hāna is concerned?

COUNCILMEMBER SINENCI: Yes.

MR. LINDO: What is awesome about dealing with the U.S. Coast Guard is, we absolutely, like they said, have a wonderful relationship with them. Anytime they have a transfer of command, they make it a point to reach out to us, and...and we have interagency collaboration and...and organization. One thing that is awesome is, here at the Maui station, they have radio frequencies that are constantly monitoring our radio. So, when there's something going on, they respond also. And that's been huge the past number of years. So, they're monitoring us and we communicate very effectively with them. I hope that answers your question.

COUNCILMEMBER SINENCI: Mahalo, Assistant Chief. Thank you, Chair.

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MS. HAHN: (*Audio interference*) his first answer too, because your real question is who do we coordinate with for responses and for a...a spill of oil or hazardous material? Our first agency that we coordinate is the HEER office, who's designated the State on-scene coordinator. And they're our interlocutor to, like, the whole State Government and the rest of...of the agencies within the State of Hawai'i. So, they're our first stop for that kind of incident.

COUNCILMEMBER SINENCI: Okay, Commander. Yeah, because we just weren't sure where the jurisdiction for Coast Guards ended, and then DLNR took over. So, if there was a boat that grounded itself on a reef, you know, at what parts do the...you know, whose jurisdiction is that?

CHAIR PALTIN: I just saw the First Deputy on the screen. Ms. Ka'akua, did you want to answer as well?

MS. KA'AKUA: Sure. I was actually going to see if Meghan wanted to respond on the...the coordination between Coast Guard and DOBOR.

MS. STATTS: Sure. Our jurisdiction in State ocean waters, is, it's high water mark, three miles out. That's...falls under our jurisdiction, and like Coast Guard said, we work with the Department of Health, the HEER Office, as well as the Coast Guard, regarding any groundings within the State ocean waters.

COUNCILMEMBER SINENCI: Ms. Statts, which is three miles (*audio interference*)?

CHAIR PALTIN: The Coast Guard is (*audio interference*).

MS. STATTS: Yes, three nautical miles out.

COUNCILMEMBER SINENCI: Two [*sic*] nautical miles...okay.

MS. STATTS: Coast Guard has Federal jurisdiction outside of that.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR PALTIN: And just to follow up on that, can citizens, if they see a oil sheen from a reef...a boat on the reef, contact the HEER Office? And if so, what is the number?

MR. JUBACK: I don't know the HEER number office, I would just call the National Response Center. It's the one-stop shop for all oil spill and hazardous materials, and goes to every County, City, Fire Department, everybody who responds. And let me just double...make sure I got the right number for you. But it's...I'll get grief for not memorizing this, because it's one of our things we always memorize, but I don't want to...make sure you get the right number.

CHAIR PALTIN: We like that attention to detail.

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MR. JUBACK: (800) 424-8802.

CHAIR PALTIN: Thank you. And I think it was Member Kama, to be followed by Member U'u-Hodgins, and then Member Rawlins-Fernandez. And all of the resources, except for Mr. Vuori, are still available.

COUNCILMEMBER KAMA: Okay. Thank you, Chair. Thank you very much for being here. So, my question, just out of pure curiosity, how many of you are actually at the Māla...or actually at Mā'alaea...based in Mā'alaea? Or are you all based on O'ahu?

MR. JUBACK: So, the three of us are on O'ahu, and he is here actually in Kahului.

MR. CHRISTINA: And then we have a...we have a small boat station in Mā'alaea. I believe there's about 25 members, give or take, depending on where we're at with transfers.

COUNCILMEMBER KAMA: So, we could actually just call you, correct? If we had to?

MR. CHRISTINA: *(Inaudible)*.

COUNCILMEMBER KAMA: Anytime?

MR. JUBACK: *(Inaudible)*.

COUNCILMEMBER KAMA: I'm sorry. He's answering for you, so I'm assuming that the he's your boss.

MR. JUBACK: The Command Center is...is the best avenue for reporting anything because it's 24 hours, and it's going to...it's got...we have what's called critical reporting, where we brief certain thresholds. So, they're going to have the one-stop shop to get it to where it needs to be. And that was the number that Commander had given you earlier. So, calling that Command Center is the most important thing you can do because then they can get it to the right people in a timely manner.

COUNCILMEMBER KAMA: Okay. And so the second question is, what is your budget?

MR. JUBACK: Well, small.

COUNCILMEMBER KAMA: I know, because you mentioned you have limited resources.

MR. JUBACK: Yes, so...

COUNCILMEMBER KAMA: So, you really depend on the partner.

MR. JUBACK: The Coast Guard in general, give or take, as the Coast Guard as a whole, as they were talking about, we're smaller than the NYPD, is about \$13 billion a year, which is not very much compared to our DOD partners, so...

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COUNCILMEMBER KAMA: The entire Coast Guard?

MR. JUBACK: The entire Coast Guard, correct.

COUNCILMEMBER KAMA: So, the entire Coast Guard in my head means, all of the oceans around Hawai'i, and the Pacific, and the U.S. of A., correct?

MR. JUBACK: And anywhere else in the world that we're working...Bahrain, Japan, anywhere else, the whole Coast Guard. Yeah.

COUNCILMEMBER KAMA: You need a...no, they need more money.

MR. JUBACK: Call your Congressman.

COUNCILMEMBER KAMA: Will do. Thank you. So...and so, Chair, I just want to ask a question from the DLNR guys. I'm not sure which one, but I'm really concerned about Mr. Keahi. Because if that is their source of food for their families, and while boats that are wrecked in the bay there are impacting their food source, and while insurance companies are probably going to reimburse somebody, the State or whoever, but those people don't get reimbursed for their loss.

CHAIR PALTIN: Yeah, you cannot --

COUNCILMEMBER KAMA: *(Audio interference)* so...

CHAIR PALTIN: -- catch black crab over there anymore. Get funny-kine taste.

COUNCILMEMBER KAMA: So...so then my question, then, to DLNR is, is there some way for families to be compensated the way other...you know, the boats, and the owners, and such, are compensated it?

CHAIR PALTIN: First Deputy? If you want to answer?

MS. KA'AKUA: That's a big...that's a big question, Councilmember. That's...you...you know, can families be compensated or somehow made whole from...from loss of traditional and cultural resources? That's definitely a bigger question than just...than just Māla. And I guess I would say that's...I think our...what we want to do is protect the resources and restore where we can. That's...you know, your question is really an environmental justice question, which is a great question, but maybe a...a broader question about how we perpetuate culture in Hawai'i. So, I guess I will say in response to you, and then the other Councilmembers, I think, you know, like I was sharing in my opening statements, we are...we are not wanting to repeat this issue, and I...I...I know that I'm new to the Department, but I hear everyone out there that has said that this happens every year, but with more frequency in the last ten years, I believe. And so, we are open to looking at a change because, you know, we...we want to welcome the whales and welcome the Kōlea every winter, but we don't want to welcome the...the boats to continuously crash

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onto our shores. So, we need...we may need to look at rule making.

COUNCILMEMBER KAMA: So, is that through the ability to maybe not allow moorings to occur at Māla, or other places --

MS. KA'AKUA: So, this --

COUNCILMEMBER KAMA: -- and I could get --

MS. KA'AKUA: -- is where --

COUNCILMEMBER KAMA: -- . . .*(inaudible)*. . .

MS. KA'AKUA: -- I would have to...I guess I would say we are...we want to find...we don't want to have this just continuously happen. And so this is where we would need to really get some counsel from our Attorney Generals on what are the ways that...how much flexibility do we have here? We know that there are existing moorings and boats out there, but we'll...we wouldn't...I guess I don't want to...I really want to be careful here, that I don't over-promise --

COUNCILMEMBER KAMA: Yes.

MS. KA'AKUA: -- especially with...before talking to our legal counsel. But we realize that this is very painful to both our resources and to the communities that rely on those resources. So, we do want to see a change happen.

COUNCILMEMBER KAMA: Thank you so very much. I would hope that community consultation would also take place. Thank you. Thank you, Chair.

CHAIR PALTIN: Thank you. I did see Lt. Juback wanted to also contribute to that answer.

MR. JUBACK: Yeah. Under the National Contingency Plan, there are mechanisms in place to file a claim against the responsible party. For personal individuals, they have to go through the responsible party to put...to file that claim, and the burden of proof is on that individual. When it comes to State claims, they do have access, should the fund have been opened, and should we have Federalized it, have access to put the claim directly to...towards the fund for funding, and so forth. So, State and Government entities have...can use directly through the fund, whereas if you are an individual whose subsistence...would have to go through the responsible party. A great example of that was Deepwater Horizon. A lot of the fishermen out there went through BP to get recompensated for the loss of their fish catches. So, certainly already a mechanism in place on the National Contingency Plan, which is 40 CFR 300.

COUNCILMEMBER KAMA: What is that, again? I'm sorry.

MR. JUBACK: The National Contingency Plan?

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COUNCILMEMBER KAMA: Yeah.

MR. JUBACK: 40 CFR 300.

COUNCILMEMBER KAMA: 40 CFR 300.

MR. JUBACK: Yep. Part C of 300. Yep.

COUNCILMEMBER KAMA: Thank you. Thank you, Chair.

CHAIR PALTIN: Thank you. Next was Member U'u-Hodgins, followed by Member Rawlins-Fernandez.

VICE-CHAIR U'U-HODGINS: Thank you, Chair. I have questions for DLNR, but I know the Coast Guard has to leave in a...nine minutes. So, if anybody else has a question for them, I can hold my questions until after.

CHAIR PALTIN: Did anyone have a burning question for Coast Guard? I think...oh, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to get clarification on a response that the Coast Guard gave to Member Sinenci. Aloha, and mahalo again for being here. So, you talked about jurisdiction, and it almost sounded like all navigable waters when it comes to 40 CFR 300. So, for State DLNR, their jurisdiction is high water mark, out three miles. So, that area overlaps with Coast Guard. And when we talk about navigable waters, are we talking about all waters under the Clean Water Act? So, even wetlands?

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MR. JUBACK: That's correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that clarification, and mahalo for the information on the Contingency Fund. Do you know how much funding is put in there, and what the balance is currently, and what the maximum that families would be able to claim?

MR. JUBACK: It's over a billion dollars right now. So, the way that the Oil Spill Liability Trust Fund works, is there's 3 cents taxed to every barrel of oil that comes into the United States. So, it's automatically regenerating, based off of the thing, and then it's also recuperated by...from the responsible party, if they have the ability to pay. So, it's...it's never...it's...it's a very effective fund, and it's super functional. Now, again, burden of proof is typically on the person filing a claim who's looking to get recompensated. But when we talk about State partnerships, a lot of that stuff that...that...there's just...it gets really complicated, and I mean, it...it's environmental law, and (*audio interference*) damages, all kinds of things that kind of are all covered in it. Because you talk about a real catastrophic discharge, all those things play a factor of it. So, there's a lot of good

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precedence in it, and...and we could probably talk at another point on the depths of that, but it's a case-by-case situation, and it's depending on what is your evidence and proof. I think DLNR did a good job of...like in this case, of documenting, you know, the damage to the coral prior to, and then after, right. Those...that's like that burden of proof that they're looking for when you start talking about claims, to show that there was actually...but it's also got to be related to the discharge of oil and...and hazardous materials, not the salvage of the vessel, right. That's a whole different ballgame. As soon as that oil and hazardous material is removed from the vessel, our jurisdiction goes away. So, our...it's not our job to salvage the boat, our job is to prevent it from causing irreparable damage from hazardous materials, oil, on...in...in the environment.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. So, with the contamination of BP oil contaminating all the fish that can no longer be caught and consumed, in Māla, as we heard in testimony, and our Chair shared, the 'alamihi can no longer be eaten, and that's a variety of crab that the families there subsistence...subsisted on. And the contamination does come from oil. So...but if it's not like just, I imagine, the burden of proof on one party would be rather high, considering it's probably prolonged over time. And so if the State has failed to act to protect and prevent that contamination from happening, could the State then be liable?

MR. JUBACK: I...I wouldn't be able to speak to that. I'm not certain that level of depth, yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Oh, attorney?

MS. DAI: No, I was just going to say, without looking into the specifics, I'm not sure. I think just based on the...the naming of the fund, probably not. But I think further research would have to be done on...and seeing who can actually sort of be compensated, and against who. So, like...I always step back and say, you know, anybody can file a lawsuit against anybody.

COUNCILMEMBER KAMA: Yes.

MS. DAI: It's not a great answer, right. So, that doesn't prevent private citizens obviously filing against, you know, State, Federal agencies, or other private citizens, so owners of boats, who maybe didn't do what they were supposed to. That's, you know, private citizens filing suit, or a class action lawsuit. That's always something to explore for these families.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Mahalo, Chair.

MR. JUBACK: I think it's...I think it's important too, just to mention that, you know, we want to prevent impact. So, timely notification of discharge is important, getting us that information so we can take the steps to put the pressure on the responsible party. The responsible party isn't always in the right frame of mind when something like this happens because there's a lot of external pressures that are coming into their...their world that they never experienced before. So, the sooner that we have timely notification that there's a discharge on the water, we can come and get there, and communicate

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with the responsible party, what is the priority, and the priority X, Y, Z, securing the discharge. How do we do that? Do we plug, you know, vents? What do we need to do to...to stabilize the situation, as our Fire Department said. We have the same mantra, right? We --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. JUBACK: -- want to stabilize. So, the sooner we get notified that it's happening, the sooner we can...so that NRC number? Get that number called in as soon as possible. Anybody can call it, give a report, we'll do an investigation, preliminary, to determine if it's worth the response, and...and we will push...put...put pressure on those responsible parties to take action. If they don't, then we'll Federalize it.

COUNCILMEMBER RAWLINS-FERNANDEZ: 700 gallons of fuel, Haleakalā discharge down to the ocean, contaminate. Would we then have to prove that that oil came from Haleakalā?

MR. JUBACK: So, again, the burden of proof is on...on the person filing the claim, right. So, I think that on a case like that, it's such a large case, it's pretty prevalent that that's what occurred. I think your burden of proof is lower. But when you start talking about, you know, somebody's fish farm, and multiple cases over time, I think the burden of proof becomes more difficult in that regards. And so, it's all based off the situations. And...and the goal for us, as we come in on any response, is we want to get this stuff solved while the response is happening, right. We want to document what are the damages while that's happening. So, it helps build your case when you go down the line to...to file that claim that you have concurrence from the Coast Guard that yes, this is what we observed happening. We're...we're all in this together. We want to make sure we document the proper cleanup. And did we take the right steps to clean it up? Because if it's impacted we could still maybe mitigate it and reduce the claim at cost, because we found...we have resources and mechanisms to clean up hazardous materials and oil, right. And so, whatever that technique is being utilized can be implemented while we're still responding, rather than when we all go away, and then we've got to remobilize things, and the cost of everything goes up more because we didn't properly do it the first time. So, it's important to properly bring those concerns up during the response, which is why we want you on area committee, and why we want you in our unified commands when this happens, so we get that understanding right off the bat, and we can respond accordingly.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Mahalo, Chair.

CHAIR PALTIN: Thank you. Question for Coast Guard? I think they got --

COUNCILMEMBER KAMA: Yes.

CHAIR PALTIN: -- to leave soon.

COUNCILMEMBER KAMA: Yes. Thank you, Chair.

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CHAIR PALTIN: . . . *(inaudible)* . . .

COUNCILMEMBER SUGIMURA: So, before...before you leave, I would like to nominate, if we could, Tamara Paltin to be on your...whatever that committee is that involves also the community. I don't know if she'll have enough time, so I'm not sure about suggesting something that's, you know, not...not convenient. But she loves --

MR. JUBACK: It's a quarterly...it's a quarterly meeting. But we would love to have you on the committee, anybody...all of you can all be on the committee. But we would like representation on certain responses. And so designating somebody who would be your representation for the County is...is...is really good to have in advance. So, that way, we already know who to...to reach out to when we set that up. So, we'll get you a phone number. You take calls 24 hours a day, right?

CHAIR PALTIN: Yes. Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. So, getting back to the National Contingency Fund. So.....and I heard the discussion about the difficulty of just maybe an individual or you know, a fisherman, having...but could a tribal entity or government sue on behalf of their tribal members?

MR. JUBACK: So, it would have to be a Federally recognized tribe to have any type of jurisdiction. Unfortunately, in...in the Hawaiian Islands, there are no Federally recognized tribes per Government standards, and the State can only...it...it...it's tricky. It would be...you would have to kind of really prove...the burden on the individual. You wouldn't be able to go like, I can't represent that individual per se, but if I have a...a trustee, like DLNR's a trustee for the land, right.

COUNCILMEMBER KAMA: Yeah.

MR. JUBACK: So, if they're the trustee, and they have a say, but there's also a fisherman on that land, then the DLNR could work with that individual who owns that private residence to share information, to...to file a claim with the RP.

COUNCILMEMBER KAMA: So, the Department of Hawaiian Home Lands are trustees for beneficiaries of the Hawaiian Homes Commission Act. So they would be able to be the entity if, in fact, that were to occur?

MR. JUBACK: Right. And we...we partner with the Office of Hawaiian Affairs. Even though they're not Federally recognized, we...we partner with them for that reason, because we want to identify and recognize their concerns when...when...when things occur as well.

COUNCILMEMBER KAMA: Okay. So...so the Office of Hawaiian Affairs, it's a little bit different than the Department of Hawaiian Home Lands, but --

MR. JUBACK: Yeah. Correct.

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COUNCILMEMBER KAMA: -- that's for another discussion.

MR. JUBACK: Office of Hawaiian Affairs is the only one that we --

COUNCILMEMBER KAMA: So, okay.

MR. JUBACK: It's --

COUNCILMEMBER KAMA: And the other question is, is there a statute of limitations for the National Contingency Fund?

MR. JUBACK: So, it's...it's the...what is called the Liability Trust Fund, is the name of the fund, in the National Contingency Plan. And there is a statute of limitations, but I...I...I'd have to get that answer for you.

COUNCILMEMBER KAMA: Okay. You can just add that to the questions over here. Thank you.

CHAIR PALTIN: Thank you. And if anyone was interested, Fire's response has been uploaded as Granicus number 4. Member U'u-Hodgins.

VICE-CHAIR U'U-HODGINS: Thank you so much. I know you guys have to leave, so thank you so much for being with us today. I do have a question for DLNR, though, I think Meghan? Sorry, I didn't really catch your last name. Thank you. Hi, Meghan. I wanted to follow up with Ms. Sugimura...Member Sugimura's question about Māla, and then I have a couple of questions about Honolua...Honolua...Honolua. Too many...too many H words. Thank you. Okay. So, when you were talking to Member Sugimura, you didn't really give her a number about the number of moorings, but you said whatever fits safely. Could you tell me what that looks like? Like, how do you guys determine what fits safely? Because if there's like one or two crashing on the shore a year, let's say, according to Mr. Keahi's testimony, is that safe?

MS. STATT: Oh, safely means there's a...a space on the water from point A to point B. So, there's two point moorings that are in the...in the bay themselves, and so it's how many can fit in that one particular designated zone for the offshore mooring. So, it could be less boats, or more boats, just depending on the size of the boat. So, if you put larger vessels in that area, then you're definitely going to take up more space. So, then you wouldn't have as much room to put other boats. So, I...I don't know offhand if it is currently at its maximum, that's something I would have to check with our Maui District Manager on.

VICE-CHAIR U'U-HODGINS: Makes sense. Thank you.

UNIDENTIFIED SPEAKER: *(Sneezes)*

VICE-CHAIR U'U-HODGINS: Bless you. And then...so, similar to what happened in Honolua,

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is...is that kind of what happens in Māla, where the boat is anchored, and maybe no one has boarded it in a while, and the rigging gets loose? Or is that...like, how are we having so many boats getting beached at Māla?

MS. STATTS: Well, this last incident, which was on March 8th, it was just the storm, the Kona storm, that had...that had come in, and all the boats went aground at that time. The owners are responsible to ensure that their moorings are maintained, as well as their lines. I mean, that's standard practice. We don't have staff that can go out and check all of that. Most of our staff is...you know, I think on the whole Island of Maui, I think if we're fully staffed, there's approximately 18 or 19 staff. Currently, right now, we only have 12 staff members, and they're basically in the harbor 95 to 99 percent of the time, just doing paperwork for the small boat harbors. So, they haven't been able to get out on the boat. What we're looking to do is, we are sending over a...a Boston Whaler to the Lāhainā staff that we have here on O'ahu, to have our harbor staff from Lāhainā go out and determine all the vessels that are off of Lāhainā in the offshore mooring area, as well as Māla, and keep an inventory of all the vessels that are there to ensure compliance.

VICE-CHAIR U'U-HODGINS: Okay. Thank you. Okay. Changing gears to Honolua, we heard from the gentleman from the Save Honolua Coalition, and he was talking to us about the moorings and how long you're allowed to be there. Do you have to have a permit to moor there, or can just anybody go there for two and a half hours?

MS. STATTS: There's day use moorings that are in there, so you can use it as a commercial permittee, or you can use it as a recreational boater.

VICE-CHAIR U'U-HODGINS: Okay.

MS. STATTS: So, either one.

VICE-CHAIR U'U-HODGINS: You don't need a special permit to go into that place? Anybody can just go?

MS. STATTS: If you're commercial...if you're a commercial vessel, yes. You would still need to have a commercial use permit to be operating anywhere in State ocean waters. A recreational vessel would not need one.

VICE-CHAIR U'U-HODGINS: And then similar to like how we have people double checking if you've been parked for too long outside our County building, you guys don't have anybody checking if people have been in there for over two and a half hours?

MS. STATTS: No, we don't have --

VICE-CHAIR U'U-HODGINS: *(Audio interference)*.

MS. STATTS: -- any on water...any on-water staff whatsoever.

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VICE-CHAIR U‘U-HODGINS: Okay.

CHAIR PALTIN: To clarify, the two and a half hours is only if there is another boat waiting for the mooring.

VICE-CHAIR U‘U-HODGINS: Okay.

CHAIR PALTIN: But by the rules, these mooring buoys should be only used in the daytime. My understanding is, the Honolulu buoys were legally permitted and installed, but not sanctioned. So, the rules...enforcement doesn't necessarily apply, is what I've been told by DOCARE.

VICE-CHAIR U‘U-HODGINS: Okay. Thank you. Thank you so much, and I appreciate your answers.

CHAIR PALTIN: A follow up to Member U‘u-Hodgins’s question. I just was wondering about the designated offshore mooring area at Māla. Do you have like GPS coordinates, or where...what section of the rules that would be found in, to follow up?

MS. STATT: Sure. Let's see, for Māla...so, you can find all of our Maui offshore locations in our rules under Hawai'i Administrative Rules, Section 13-235-65 to -71. And that will cover Kā'anapali, Māla, Lāhainā, Kihei, Mā'ālaea, Hāna, Mākena; all the...the offshore moorings...moorings in...in Maui itself. Because this is also Moloka'i and Lāna'i, that is also in there as well under that particular section in 13-235-63 and -64.

CHAIR PALTIN: Thank you so much. I believe Member Rawlins-Fernandez was next.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, let's see. I have a bunch of questions. I think this might be for Deputy Ka'akua. Okay, and I know you said it earlier, and I...and I know you've only been on the job for about three months, so no pressure. But if this is anticipated for every Kona storm, is there, like, a policy, you know, to prevent the...I think you said you had to check with legal counsel to see if it would be permissible to have a law to prevent docking or mooring where we would anticipate it likely breaking and then getting grounded on the reef. So, right now, there...there isn't anything like that in place?

MS. KA'AKUA: Yeah, that's right. It's...it's an area that's legally permissible for...for mooring, for permitted moorings, right. So, there's no...you know, it's not designated as a place where there are no moorings, so you can get a permit to have a...a mooring there. So, if we wanted to make a change, that's where...where I would need to go back and get AG's assistance, and explore with our Chair, and with the Division of Boating, if we're open to initiating that rulemaking process.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Is there any enforcement mechanism where if a grounded ship is left for more than X amount of days, times, hours, that there would be...that there is fines, or...or some kind of penalty?

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MS. KA'AKUA: Meghan would...may know better than I do. I don't think there's a fine that immediately applies, for example, if the...if a vessel has been left for a period of time. There are instances where the...when the owner asserts that they are taking control of the removal effort, then DLNR are...we are not supposed to just step in. And so, there is a...yes, there is a call that has to be made by DLNR. If we...if we understand that they have not actually taken control, they're not actually working on it, they...sometimes, as in the case of...of Nakoa, we have...we get an initial response from the boat owner that they are moving forward, and so, then we are not then able to step in. But as...as soon as we understand that they're not able to move forward, their insurance isn't covering it, or they're just failing to act, at that point we can step in. So, Meghan, did you have anything to add to that? Hopefully, I was correct in that, that there's not a specific fine that kicks in if it's been over a certain amount of time?

MS. STATTS: That's correct. We have to follow what's in the HRS 200-47.5, and there is no fine or citation mechanism in that particular section.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, there's no fine, cash penalty, or jail, or anything that would rise to the level of consequences for that kind of destruction. So, maybe in looking at rules, that's something else that we would add to the list in rulemaking.

MS. KA'AKUA: So, we can go after the boat owner for destruction to the coral reef, to our natural resources. That's already there, and we do pursue that. But in terms of, you know, not...not removing the actual vessel and having a fine associated with time to that, there's nothing in our...in our current law that would allow us to fine for, say, if they were...if they had asserted that they are in the process of removing it, but it...it takes a certain time, there's nothing that we can...we can't impose a fine for...for that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Can I ask one last question?

CHAIR PALTIN: . . . *(inaudible)* . . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. So, one of the testifiers shared with us, HCR 148, Concurrent Resolution...House Concurrent Resolution, that's scheduled for tomorrow at 2:00. Does the Department have an official position of this resolution...or on this resolution?

MS. KA'AKUA: Yes. Yep. So, I will say all the area Councilmembers and State legislators have been very supportive of doing whatever we can to protect our resources, as well as make sure that there's fines assessed to provide more funding to actually try to heal these resources. So, I think this is the concurrent resolution introduced by Senator McKelvey, if I'm thinking correctly, and this --

COUNCILMEMBER RAWLINS-FERNANDEZ: It looks like the introducer is Cochran. It's a...it's a --

MS. KA'AKUA: Oh --

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COUNCILMEMBER RAWLINS-FERNANDEZ: -- House...it's a House Concurrent Resolution.

MS. KA'AKUA: Oh, okay, okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: (*Audio interference*) companion (*audio interference*) is House Reso 150.

MS. KA'AKUA: House Reso 150. Okay, thank you. Okay. So, this is the one introduced by Rep. Cochran, and it's encouraging our Attorney General to go after all civil and...and criminal fines possible. And really, our position is, that's what we want to do anyways. We...we do want to pursue every civil and criminal option. We all saw the massive destruction to Honolua that happened from the grounded yacht, and so, we're on that path already. But this just encourages our...our current train of thought and action. So, we're appreciative and supportive of Rep. Cochran...Rep. Cochran's position here.

COUNCILMEMBER RAWLINS-FERNANDEZ: Awesome. Mahalo, Ms. Ka'akua. Mahalo, Chair.

CHAIR PALTIN: Thank you. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And mahalo, Deputy Ka'akua. Just following up on some of Member Rawlins-Fernandez's questioning. As far as extracting, you know...and to Mr. Keahi's point about still having sailboat masts, sailboat keels and engines still on the reef, or in the water, when we've been trying to...we have those in East Maui too, but we've been trying to...when we go in and try to extract these things, they're saying that just...nobody can just go in and extract these things from the ocean or from off the reef, that only somebody with some kind of a marine certificate, whether it be a certification, whether it be with some heavy equipment, can go in and remove some of these shipwrecks. Is there...is...is that correct? Can you confirm that?

MS. KA'AKUA: Meghan, do you want to answer this one?

MS. STATTS: Yeah. You know, listening to Kekai's testimony, you know, we are aware of...of some pieces of boats, like a keel that was left, that the contractor is still working to come back. When a vessel is removed, it's supposed to be the entire vessel. Unfortunately, we don't have divers on...in boating, but that's, I think, something that we could work with our partners with, Aquatic Resources, since they may have better resources to...to dive down in some of these locations to find out where everything is. But yeah, there...there...we...we would need to make sure that we have...hire a contractor and somebody certified to take it out, so that the natural resource is protected during this particular time.

COUNCILMEMBER SINENCI: Okay. Thank you. And then what about cleanup, when we're talking about hundreds of barrels of diesel that has been spilled in the water, or flakes of fiberglass from the boat wreckage that is now in the water? Who does...who does the cleanup now?

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MS. STATTS: If it's the...if we have taken control over it, it would be the contractor that were hired and do their best to try to clean it up. Ultimately, prior to us taking control of the vessel, it is the owner's responsibility. Unfortunately, we, as the State, can't remove something from a private individual's boat, it's only when we take control of the vessel that we can do that. But I believe that Department of Health, the HEER Office--and I can't speak for them, but my understanding would be that they may have the ability to remove some of the fuel if in cans. They also have a revolving fund similar to what the Coast Guard has. The Coast Guard normally only opens their fund for removal of hazmat on the boat when it is significant. If you're talking something that's, you know, pretty minor, that's something the Coast Guard wouldn't get involved with. So, ultimately, to answer your question, it is the owner's responsibility. If the owner doesn't do it, when the State steps in, that's something we'd work with our contractor on.

COUNCILMEMBER SINENCI: Okay. And just to clarify, you said boats over a certain size of now need to be insured up to \$100,000, yeah?

MS. STATTS: Yes. Any trailered vessel over 26 feet.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

CHAIR PALTIN: Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. I was just thinking about a question that Member Sinenci had asked. So, it is the owner's responsibility to take stuff off the reef, take stuff off the ocean. But as Mr. Keahi said, that there were things that were left behind. So, who enforces the boat owners, to ensure that all that stuff that's left behind gets picked up, taken out, and taken to where it needs to go?

MS. STATTS: If...if it's under the...I mean, ultimately, it comes down to the division. I mean, we...we need to be able to try to get staff out there to take a look. In most cases, it'll be difficult if it's at the bottom of the ocean because, again, like I said, we don't have any divers on...on our division. Some...something we have to kind of work out, or photos, or something to that respect. Most of the time, we do ask for our contractors to provide us with photos that everything has been removed. But it sounds like, in some of these cases in Maui, that that didn't happen. So, that's something that we'll have to follow up with, with our Maui district staff.

COUNCILMEMBER KAMA: Thank you. Thank you, Chair.

CHAIR PALTIN: Any idea when Maui, Lāhainā, or Mā'alaëa might be getting a harbormaster?

MS. STATTS: We have...that's a very good question. We have tried to fill the position internally. We have also done recruitments out externally through DHRD, and have not...not gotten any qualified applicants at this time. So, currently, we have two harbor agents, one in Lāhainā, one in Mā'alaëa, that are currently temporarily assigned into those positions. So, we're...we're just waiting from a list from our Department of Human Resources and

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Development. So, if anybody wants to apply, please go on to the DHRD website and apply. It's a...it's a Boating and Ocean Recreation Harbor Agent IV position.

CHAIR PALTIN: Thank you.

MS. KA'AKUA: Meghan, maybe for those viewing that aren't so familiar with the...the State hiring processes, like myself, coming over from nonprofit, where we could just post on social media, and fill it within a week, it was very easy. And this has been very difficult for the...the Division of Boating Ocean Recreation. They...we have to work with the State Department of...of Human Resources. And so, the positions are posted. These are very important positions, so, thank you for raising it, Councilmember. And we have not been sent any potential...people have applied for the position, but we haven't been sent any that we can actually proceed to...to hire. So, yes, please...please share that we're looking for...for folks with harbor experience to please apply for those positions.

CHAIR PALTIN: Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Why has it been so difficult to fill the position?

MS. KA'AKUA: Meghan?

MS. STATT: . . .*(inaudible)*. . .

MS. KA'AKUA: Or I can share too. You want to go first? I'll just give you my...my honest take, as someone new to State Government. The...I think there are many minimum qualifications for these positions, and so, DLNR has not even been sent one person that we can interview for the...for the positions. And so we are...we've recruited, but it's been...the DHRD, our State Department sister agency, hasn't found anyone that they're comfortable sending over to us to interview.

CHAIR PALTIN: Is it a kind of position where we could train people locally who are really concerned about what they see happening at the harbors?

MS. KA'AKUA: Oh, she...I've talked to our...our good folks like Meghan and others, and they're happy to train. I think...something that I've noticed, is it makes a lot of sense when we have folks that are from a community to work within that community. And so we would love to see that happen. And I think where we're hitting a roadblock now is that because we don't have internal candidates for that position, it's been difficult to meet the qualifications for that...that big kuleana and title of...of harbormaster. And so we might need to take a different...take a different tact, or come in at a lower level, but train up, and have that period of time where, you know, maybe it's a year before those minimum qualifications could be met.

CHAIR PALTIN: And how often do you check that the boats moored offshore in the designated mooring area has insurance? And...and what...what makes it be a permitted mooring?

MS. KA'AKUA: Meghan?

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MS. STATTS: So, first off, for the insurance, they're required...all permitted vessels in our facilities and offshore mooring are required to provide a copy of their insurance every year during their renewal process. If...if the insurance gets canceled within that 12-month period that they have a permit, in most cases, I'd say probably about 95 percent of them, the insurance companies will send a cancellation notice to the harbor because we are listed as an additional insured for every single insurance certificate for the State. So, if that happens, then our staff will follow up to ensure that they have insurance. Because anybody that's permitted needs to have an insurance for the entire time that they actually have their permit for that year. So, that's the insurance part of it. And your second question, I believe, was in regards to the moorings?

CHAIR PALTIN: Yes.

MS. STATTS: Is that correct?

CHAIR PALTIN: Yes...yes. How would you become permitted, and the State know that anybody in designated offshore mooring area is permitted? Can anybody coming from anywhere across the ocean drop anchor there? Is there a requirement for bow and stern moorings, or how does that work?

MS. STATTS: That's a great question, Councilmember. So, in order for there to be a mooring installed within a designated offshore mooring area, there's steps that need to happen first. The permittee, or the individual, would need to make sure they get the GPS coordinates. They got to check the ocean floor, take photos, provide a description of what they're looking to put in. They need to provide what type of anchor and mooring system, and they have to document all of that information. After they do that, they need to provide plans stamped by a structural engineer that...that basically states you have...this mooring will secure and hold the appropriate vessel that they're wanting to put on that particular mooring. So, they need to submit that mooring plan with all of those documentation, with the information, the plan stamped by a structural engineer, and it'll get...it'll get reviewed and approved by our boating chief engineer. Once he is okay with that, it...we require the individual to send in a U.S. Army Corps of Engineers application for the mooring itself, and they have to go through that process with the Army Corps of Engineers to get permission to put a mooring for that size vessel on the ocean floor in that designated area. If the Coast Guard approves it, then we will work with them to have them install that mooring, which they have to maintain throughout the year. And that's when they would obtain their permits for the vessel that's moored there, after they complete all of that. That process could be anywhere between two to four months, just depending on how fast the Army Corps permitting process is.

CHAIR PALTIN: And is it legal for somebody who went through this two- to four-month process, and got permitted to sell that mooring to another user?

MS. STATTS: Yes, that is a possibility. They could.

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CHAIR PALTIN: And so, do you have any idea of the number of permitted mooring, the...Māla, Lāhainā designated offshore mooring area?

MS. STATTS: I do not have that offhand. That's something we would have to...to follow up with our Maui staff. And like I had kind of mentioned earlier, you know, we are looking to send a Boston Whaler over to the Lāhainā Harbor staff so that they can conduct inventory of the offshore moorings. Because there may be vessels that are out there that are illegally mooring, that don't have a permit, that don't...or that could be anchoring. That's what we want to be able to address. And like I said, we are short staffed. That's no excuse. You know, we have 13 mandates that we have to do, and one of the biggest mandates is...is coastal...coastal management, which is all the activity that takes place offshore. And so, it's definitely this...this push and pull of what can we put our staff to, and a lot of times it's just been kind of dealing with the harbor. So, once we get that vessel out there, then we will have our staff go out on a regular basis. The first one is to document GPS where everybody is located, get the names, and create what we would call just a harbor inventory or an offshore mooring inventory, so we have the name of the vessels, the owner of the vessel, the GPS coordinates, ensure that they have their legal mooring and permitted by the...the U.S. Army Corps of Engineers, and get a better handle on all the vessels that are out there. So, that's what we're doing moving forward.

CHAIR PALTIN: I can sympathize with being short-staffed. If I might suggest, if any information that you have is available to be posted publicly, my community would help to point out those that are not legally where they're supposed to be. Let the community help you police the area because what's going on right now is definitely not working. And I think people would be happy to point out the scofflaws. Is there a consequence for illegally mooring in a designated offshore mooring area?

MS. STATTS: Yes. Nobody can be moored anywhere in State ocean waters without obtaining a permit from the small boat harbor. So, we follow 200-16 HRS, so that means that everybody has to have a permit. We have in our rules, fees for anybody that is mooring illegally on the State ocean waters in a designated area, or in our facilities themselves. And the process for that is, once we determine that they are illegally moored, we send what's called a 72-hour notice of intent to impound. And that basically puts the owner on notice that says, hey, you are in this area, you do not have permission to be here, you either need to one, get a permit from us, or leave the area completely. If you do not within 72 hours, then the State has the ability to impound their vessel. And after that, if they're still there...and it's a...it's a...the mooring fees, the illegal mooring fees, basically rank up every single time, every 30 days if they're there longer than 30 days. And...and sometimes, you know, we...we can't get to a vessel, but we try to impound it as...as quick as we can. I would say a number of years ago, I know myself and an Administrator, Ed Underwood, did go down to Māla and Lāhainā, and did do an entire inventory. We went out on the boat, and we posted a lot of boats that were illegally moored, and cleaned up the area. Unfortunately, we just...we need staff to continue this on a regular basis, so that we can continue what we had already started.

CHAIR PALTIN: I guess my follow up (*audio interference*)...I was somehow cc'd on the thread

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between Director Underwood and Mr. Jones. And Mr. Underwood had said, you know, if he rectifies his insurance situation and he pays off his fines, he could then apply again for a commercial use permit. Given the short staffing and the overuse feeling by residents, is there any limit to commercial permits that are being issued? Or...or is it the State's belief that we should continue to issue these commercial permits when we don't have the ability to regulate?

MS. STATTS: Well, if...if somebody does not owe the State money, they've paid everything up, currently, there is no mechanism to not issue a commercial use permit. We would have to set limits specifically for...for areas, like we do at the launch ramp, for example. You know, at Māla, there is a limit of 15 ramp permits. There are currently 16, because when we changed the rule, it was whatever is in existence gets grandfathered in. So, it's something similar to that. That is something that we can do, and I think that's the conversation that we will have with...with Deputy and Chair in regards to what legally can we do, and how we go about doing something like that.

CHAIR PALTIN: So...so, just to be clear on what you're saying, there's no way...people meet the requirements of a commercial use permit, there is no way that you can deny them, unless there's . . . *(inaudible)*. . .

MS. STATTS: That's correct. Yeah, that's correct.

CHAIR PALTIN: Okay. And to clarify, on the 16 Māla ramp permits, can each permit have multiple boats, and can those permits be sold?

MS. STATTS: For the ramp permits, it's one boat, one permit. And can they sell? The permits themselves don't sell, but the company does sell. They have the ability to do that within the law.

CHAIR PALTIN: Like, transfer --

MS. STATTS: And the permits stay --

CHAIR PALTIN: -- transfers to another company.

MS. STATTS: -- stay with the company. Correct.

CHAIR PALTIN: So, if...what is the cost for a permit?

MS. STATTS: For a ramp permit, it is \$300 per month, or 3 percent of the gross, whichever is greater.

CHAIR PALTIN: So, it's if A has a commercial permit at Māla, and another company wants to come in and do business, they could go and sell that commercial permit to the second company for \$10,000?

MS. STATTS: A company could come in and purchase another company that has a ramp

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permit. And then the ramp permit would be with that particular company. And there is a transfer fee in our rules that's involved as well.

CHAIR PALTIN: And what section of the rules or law would we look to?

MS. STATTS: I would...I would have to go...like, I don't remember that one offhand. Apologies.

CHAIR PALTIN: All right. Well, I'm kind of monopolizing the conversation here, but thank you so much, Members, for your indulgence. I really wanted to know the answer to those questions. Did anyone else have...oh, Member Kama, go ahead.

COUNCILMEMBER KAMA: Thank you, Chair. I just realized that one of the testifiers earlier...I don't know if she was confused about the 20 percent of the proceeds from the harbors and DLNR, and all...and the airports, and she may have gotten that confused with the 1978 Constitution that gave birth to OHA. So, my question to DLNR is, what is DLNR's 20 percent of the pro rata share that's supposed to be giving into the Office of Hawaiian Affairs?

CHAIR PALTIN: First deputy?

MS. KA'AKUA: Yeah, 20 percent goes to OHA. That is owed to OHA for all revenue from ceded lands. And so, that is already going to OHA. So, I'm not...I know that there was that comment about starting the bank account, and we take that 20 percent obligation to OHA very seriously. And it's already...and it's already part of all of our actions.

COUNCILMEMBER KAMA: So...so, the question was, how much is it? What is the 20 percent in terms of dollars and cents?

MS. KA'AKUA: For...for...sorry, Councilmember, for...what are you...for which revenues?

COUNCILMEMBER KAMA: So, the 20 percent that you all are giving over to the Office of Hawaiian Affairs, how much of that is in dollars and cents? What is...what is 20 percent?

MS. KA'AKUA: You're asking --

COUNCILMEMBER KAMA: Annual.

MS. KA'AKUA: -- for all...in total of the Department?

COUNCILMEMBER KAMA: Yes. Yes.

MS. KA'AKUA: Okay. I do not have that number offhand. I can promise to get back with you --

COUNCILMEMBER KAMA: Okay.

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MS. KA'AKUA: -- with that.

COUNCILMEMBER KAMA: Okay. Thank you. Thank you, Chair.

CHAIR PALTIN: We can have...follow up with a transmittal. Another question that came through was if they could provide how much revenue Māla and Lāhainā, in and of itself, generates. And your question was, how much DLNR gives to OHA?

COUNCILMEMBER KAMA: Correct. What their 20 percent is.

CHAIR PALTIN: What the 20 percent that DLNR gives to OHA. Did anyone have follow-up questions for a transmittal? I think the other one would be...I guess we could look it up ourselves, but if they know the section of the rules, Hawai'i Administrative Rules, or Hawai'i Revised Statutes, that talks about how commercial permits are issued, the cost, the transfer costs, and things like that, unless you folks know.

MS. GRECO: Chair, we can do a follow-up letter with those questions.

CHAIR PALTIN: Thank you. Did anyone else have any questions for any of our resources? Seeing none. We can also upload the Coast Guard's response to the questions as well, and I believe Mr. Vuori's response is also...will be uploaded. So, we can come back, we can work a little bit. I think the request was for a resolution, so we can try and work on that and bring it back to you at a later time. But a lot of good information as a starting point. I just want to reiterate that National Response Center number for oil spills in the ocean is 800-424-8802. And if there is nothing further...Staff, is there anything that I neglected to do?

MS. GRECO: No, Chair, you're all good.

CHAIR PALTIN: Okay. With no objection, I would adjourn --

MS. GRECO: Sorry, defer the item, then --

CHAIR PALTIN: Oh, defer this item, and adjourn the meeting. The time is now 4:21.

**COUNCILMEMBERS VOICED NO OBJECTIONS** (excused: TC).

**ACTION: DEFER pending further discussion.**

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CHAIR PALTIN: Okay, I'm doing it. . . .*(gavel)*. . .

**ADJOURN:** 4:21 p.m.

APPROVED:



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TAMARA PALTIN, Chair  
Disaster, Resilience, International Affairs,  
and Planning Committee

drip:min:230322:mll:kr

Transcribed by: Kaliko Reed

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CERTIFICATION

I, Kaliko Reed, hereby certify that pages 1 through 51 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 13th day of April 2023, in Wailuku, Hawai'i



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Kaliko Reed