

Public Testimony from the NOAA Fisheries Public Hearing on the Proposed Protective Regulations for the Oceanic Whitetip Shark; Kailua-Kona, HI, August 20, 2024

Public commenter #1: Gil Kualii

Commercial fisherman out of Hilo. I didn't make a couple of questions I had in the beginning part, but I think a couple of comments that I do have is basically scientific information indicate incidental capture of oceanic whitetips, if released properly, have minimal impact on the population. Tagging data from long line vessels show 97% survivorship rate if released in a minimum trailing gear. Hawai'i fishermen through the Hawai'i Community Tagging Project have tagged a lot of oceanic whitetip sharks for research, which should also show high survivorship. So some quote from the Hawai'i Community Tagging Project newsletter: from our previous studies on the post-release survival of the oceanic whitetip shark captured in a longline fishery, we know that cutting the line as close to the hook as possible to release them as quickly as possible means a higher chance of survival. Thus, we strongly encourage any fishers who have frequent interactions with any pelagic shark to cut the line as close to the hook as possible to safely release them. What I'm basically requesting is to request NOAA Fisheries to exempt incidental take in the fishing activities from a take prohibition rule. Fishermen always want to do the right thing. I mean, that is our goal out there. Let's not make it harder for us. The state of Hawai'i already has rules in place that protect sharks; incidental take was intentionally excluded from those rules. The federal rules should mirror the state rules. Commercial vessels are already prohibited from retaining oceanic whitetip and require fishermen to release oceanic whitetip sharks under federal rule WCPFC implementing regulations for US Fisheries at the 50 CFR 300.226. If the concerns are with how the sharks are handled and the potential for intentionally killing or injuring prior to release, then the incidental take exception can be on conditions that sharks are released in accordance with best practices that minimize post-release mortality. An exemption to incidental take would allow a more collaborative approach for providing outreach to small boat fishermen to do the right thing, and use the best release practices based on what has been learned to date from the Hawai'i Community Tagging Project. None of us got that training, you know. If you're going to enforce something like this, where's the outreach? I mean you got to provide the outreach. Additionally these types of exemptions will likely facilitate trust building for future collaborative work with fishermen to develop non-lethal deterrents. Blanket take prohibitions coupled with the lack of an incidental take permit to the state, which even if the state started the process, will take years and money, will likely cease any voluntary reporting of interactions with the oceanic whitetip. Additional exemptions to be considered, self-defense for spear fishermen to deter oceanic white tips if they encounter them underwater. Thank you.

Public commenter #2: Jonee Peters

I am the executive director of the Conservation Council of Hawai'i. We are in Honolulu. We are a nonprofit organization. We are 74 years old. We have about 4,000 members and are an affiliate of the National Wildlife Federation, which has 52 State and territory affiliates with 9 million members backing us. So I'm here today just to commend you folks for one for putting on this meeting here as you can tell everyone here has very good comments for you and I'm so sad that you didn't go to other places in Hawai'i, and I know you said the reasons why, but based on what everyone said here I think you should be because you'll get more valuable information and that

way you can make your assessments better. However, at the end of the day I do work for a conservation organization so I will stand behind protecting the shark, because it's low numbers and it's at a highly threatened status. So that's what I want to say. Thank you to you folks, and thank you to everybody. Thank you

Public commenter #3: Mike Nakachi

Aloha mai kākou. My name is Mike Nakachi. I come from the ahupua'a of Waikoloa. I'm going to mention a couple things. The first is mo'okū'auhau, I am the son Lei Makani, I have children named Kaikea and 'Alohi. My father Lei Makani, is son of Wailani and my mo'okū'auhau goes back to the time of Kawaohea to Kekaulike to Kamehameha nui on the island of Maui. There's mo'olelo that I will also mention, Pua ka wiliwili, nanahu ka manō, that mo'olelo was done by my family in the time of Kawaohea, which interpreted means, "when the wiliwili tree blooms the shark will bite." We're talking about a shark here that lives in that realm of Kanaloa, that is oceanic, in that realm of Moananuiākea. I feel that with that lineage, my dad was an aku boat captain who eventually got phased out. Hawai'i has gone through a transformation and the transformation has not been in the best interest of many of the Kānaka Maoli that are in this room. We feel that a lot of time consultation needs to happen and a lot better kūkā'ā way. We're in the realm of this area right Kamakahonu. Behind me is Kūkā'ilimoku and we need to honor this place. Ahu'ena Heiau is directly offshore here, this is the seed of the Kingdom of Hawai'i and many of the brothers behind me, you can feel their mana. You can feel their anger. but I come from a lineage of kahu manō but everyone has to realize there is a thing called the Kumulipo. The Hawaiian creation chant. Where does Kānaka come in? Kānaka comes in, in verse 13. Where does manō come in? Verse 8, they were held in the highest reverence. There were protocols to do things. These are things that NOAA and the state of Hawai'i here, need to get engaged. My concern is that transformation from an aku boat fishery to now have in the 80s, 140 boats in Honolulu Harbor that then have the access to lay 30 miles of hooks but then are sponsored by who? The federal government. They got a managed/monitored thing. We can call that elephant in the room, WESTPAC. WESTPAC has adversely affected the local fisheries. There's no way around it. 140 boats can go around laying 30 miles of hooks and we have many lawai'a pono in this room that are responsible for four hooks and I'm going to penalize them. These are the brothers and sisters that need to be providing fish for the pae 'āina. Not WESTPAC. Not WESTPAC. Do not let the ho'omalimali pull you over and drag you into the room 'cus they're going to put you up in a hotel and they're going to kani ka pila you guys control your own narrative but don't blame always the realm of aku. We need to do things in a much pono manner. We need to do things in a ho'oponopono way. Braddah spoke the truth from Hilo, Braddah Ben speaking the truth, but change has happened and I mean change because there's not only guys be ika shibi, there's not only guys "make dog", there's not only guys that are fishing. We have a whole new realm of circumstances that capitalize on this manō. Mr. Daniel Bothelo is a part of the take. People hang chum, people flash flashers, people engage for citizen science. I would be very curious as Kānaka and as fishermen to put any faith in scientists to stand on their backs for their own scientific justification. Because you are hearing it now. You need Kānaka scientists, you need to be a member of this lāhui in a proper manner. So that we can all do things in a manner that is pono. Throwing a jug out there, is that pono for the manō? Our ancestors would probably not be too happy with that. We have a 147 ahupua'a from Opolu to Kalae. Those ahupua'a boundaries extend all the way into that realm of Moananuiākea. This is

just a few people in this room but we need to get the kāhea out a little bit more broader. I feel for Mr. Abe. We don't need to be throwing shade at each other but for the brothers that wanted to get niho manō, for teeth there was a protocol, for the brothers that wanted to take for pahu, there was a protocol. Do you know those prayers? Do you know that protocol? Come I kūkākūkā with you Brothers. We can talk story. Mr. Ishibashi, good to see you. Last time I saw him, he was in the little league but what I'm getting at, we all need to, it's very tough if you're in Silver Lake, if you're in Ford Island, the process we need OLE here, there's a lot of things that I could elaborate on, but I'll try and get that in the form of writing to you folks. I just think that there needs to be a lot better consultation in the future, especially when you're dealing with something that is held in that reverence and we all need to. As for protection for those individuals that do go into that realm of Moananuiākea. It's not their realm. It's not the realm of Kānaka. It's the realm of manō Kānaka. It's the realm of manō 'aumakua. So do we humble ourselves and do we drink that bitter water when we enter that realm of Moananuiākea. I just can feel that mana, the turbulence. I just want everyone to remember that we are always guided by aloha. I think you folks need to do a little bit more thorough job and this is a good start but the finish line of September 15th is a very difficult deadline for many people to attain. We did public scoping when it came to things like spinner dolphins. I will tell you that that has had adverse effects on other forms of mammals and this has a symbiotic relationship that we have known for realms with pilot whales and other forms of akua themselves. I think there needs to be a lot more on that take, on palu, man's interaction in that realm of Moananuiākea, and again we need to inform people like Kia'i Kanaloa, we need to inform the proper people like OHA, we need to inform other folks, I know the state is here in this room and they're listening they're taking notes but we need a better collaboration. I appreciate the time. I bring into the space that mo'okū'auhau from Lei Makani here to Kūkā'ilimoku and Kamakaomi. Mahalo.

Public commenter #4: Maxx Phillips

Aloha mai kākou, Maxx Phillips for Kohala. I'm the Hawaiian Pacific Islands director and staff attorney at the Center for Biological Diversity. I want to mahalo you guys for extending the comment deadline for the first time. It's obviously very important that the community has time to interact to give their mo'olelo and also to be informed and I think as you've heard here these meetings should be held on our other Islands as well, as for Samoa and Chamorro people, which only have the option of virtual, which may not be possible for a lot of folks over there. To the specifics of the rule as the Center, we're in strong support. The population declines cannot be taken inside of the vacuum since the 90s folks have seen that unfortunately now we're coming to head with the fishing community when what I'm hearing from most folks here is that there doesn't need to be that kind of tension that we all kind of want the same thing. As to specifics the law enforcement exemption, where it supports and allows for necessary action to aid, dispose, salvage, for beneficial release, we are in favor. This exception is crucial for ensuring the urgent, on the ground response to sick, injured, stranded sharks that are handled with proper care. So we would like to support that. As for the scientific research exemption, the non-lethal scientific research and the import-export of oceanic white tip sharks for research purposes. While we recognize the importance of scientific research, we believe that the existing section 10 permits are sufficient for these activities. Maintaining permits, section 10 permits, ensures that research is conducted responsibly and with appropriate oversight. We understand that certain urgent research, such as investigating an emergency die off of oceanic whitetips, would require an

emergency option. In such cases we would support specific exemptions provided that these exemptions are clearly defined in the final rules to prevent misuse and ensure that they contribute positively to the species conservation. Mahalo.

Public commenter #5: Shane Nelson

Hello Shane Nelson, Shane Akoni Nelson born and raised in Kealahou Bay, left side of the shore. I'm a Kealahou boy, grew up in the ocean. I'm also from the Office of Hawaiian Affairs a public policy analyst and here to make some comments. I don't think I want to extend it out any longer, but you've heard what the community said. I want to just reiterate the importance of including traditional ecological knowledge. You've heard it here and the agency will be commenting no later than September 15th on ways and how we can amend the ESA as well. That's what I was asking some of the questions and I wanted to make sure that we would be in alignment with our community. One of the things that we also will be coming forward with is consultation. You heard some of our community members today that just even the notifications and I totally understand how the federal government operates and it's based on a fairness, quote unquote process. However, there are specifications to the native Hawaiian community as well as other indigenous populations and that is why I keep bringing it up. With indigenous people consultation. So I think looking at your EA, any one of those 3 alternatives do not include any kind of indigenous consultations and in that process I would suggest that you look at extending the deadline of September 15th because you have not done proper consultation and we'll probably come and consult with you guys about that. The other thing too is that Mr. Abe had brought up a good point: how much of the rulemaking or this process will impact the global impact to protecting the sharks? That was not also included in any of the studies that we're looking for and so I think that would be important information to bring about. I know that the federal government doesn't have any jurisdiction in state waters as well as international waters but if we can get an idea of how much the impact would be to impose this particular rule. We also like to know how much it'll improve the shark's population but also understand the negative impacts to the fisherman as well as culture practitioners. We would like to see more of that kind of studies. And then including indigenous data such as the uncle back there, he brought up some data that we should have been collecting you tonight. That's important, that's why I think we should take some time to really consult with the native Hawaiian community, the practitioners and I think that should be included in the data that you're receiving from your researchers. I think that's what the EOS from the White House came on. You know they're saying that you have to include traditional ecological knowledge and I haven't seen that in the proposed EA so I think we got some homework to do. Thank you.

Public commenter #6: Steve Kaiser

Aloha mai kākou. I mean seriously, I go out the buoys, my buoys and I catch my ahi. They take them right behind the boat, right behind the head. You try throwing the hook out to stiff them and run away. That's what I worry about when you guys start talking about using catch data for a population assessment. If you get sharks, that already know where the hook is. I think that some of these sharks that already got hooked two or three times already know what a hook is. To think that, think that some of these sharks that get hooked 2 or 3 times that they don't learn not to get hooked and take these fish off behind the head. They're not dumb animals. I don't know about

you guys. They go to school right? I have 4 behind my boat, the biggest I have ever seen. They take them right behind the boat. And if I try to hook them, 'cus I'm going to let him go, and let him go okay. Just to tire him out, so I can get a few more in my boat. They don't want to take a hook. It's very deceiving when you start using catch data alone. I don't care what you're observing or not but these animals do learn.

Public commenter #7: name not recorded

Hello. Do nearshore oceanic whitetips exhibit different behaviors than what we see out in the Pacific with the observer program? Is there the potential to delineate data here? And look at different populations of oceanic whitetips classified under different proposed rules, let's say our nearshore oceanics that are more educated, maybe does not apply to the same population group out at sea. Is that anything that has been discussed with you guys?

Public commenter #8: name not recorded

I cannot see how it's 95% depleted, because we've been out days that there's nine sharks surrounding, they'll follow us. Surrounding our boat. Like he said, they'll take our ahi. That's what they do and never used to be like that. We used to pull ahi, pull fish not fish heads. I just cannot see that data, I keep going back to that data. They are underpopulated, I would say over populated and I just have to say that it doesn't make sense to me or when we are catching ahi heads that they leave for us.

Public commenter #9: name not recorded

All I think to add here to your question and this question about the population being in such a low decline rate like 95%, that data was taken I assume well before this shark was placed on the endangered species list right? See you guys get that right? Before this shark was put on the list. Before you can harvest and kill the shark, it was that way. Now that we've already been what are we got 6 years now, that's where we see a lot of the increase and that's what we don't see on here, so in turn if and when this app does go into play and we cannot take or hook or harm this animal when the data comes out in something 2025 or whenever the data comes out after this app is put in we're going to see an increase in population just based on that right let's just say in 95% was 10,000 white tips in the world in the Pacific. Now in 2025, 100,000; this thing is working. Let's just keep this thing going. Let's just keep extending this app. Let's not shut it down, it's working and I think that's kind of what's going to trend from this. I think we are all feeling the same way here. We should really listen to this guy, this guy's been fishing for years, his whole life you know this guy and the amount of respect when this guy started talking tonight. This room got so quiet, that's how much respect this guy has here in Kona. I think a lot of this guy has so much knowledge. The sharks, it's out of control. It's out of control. And then you guys try to come out here and push for East Coast laws. I went to that meeting at the Outrigger hotel. The Pacific side should be...So basically take comes, take harm, if you even hook a shark that's considered take and we're in violation of the act. Bottom line. All the fishermen here are at risk of getting a fine. I guess the federal offense I guess it could be. I would consider and with the population increasing the chances of catching one is going to increase the chances of us getting a fine going to increase the snowball but the main thing I want you guys to see is the data does taking and presented on

this is probably before it was placed on this endangered species list so now that since 2018 it's had some few years to repopulate when they take the next data you're going to see a spike. It might not be enough to take it off the list but you will see a spike and what the scientists want to see is that stuff like this works that there's a positive correlation or a trend that's going to occur and it's going to affect probably 95% of everybody here because I'd say 95% of people here are fisherman and just watch for that trend. Mark my words.

Public commenter #10: name not recorded

I have a quick question, I went to a marine expo about a month ago and so you're talking about the numbers and the data but there was a campaign where NOAA was giving out stickers and stuff saying call us if you have seen an oceanic whitetip. So if you're comparing the numbers, did you have a campaign before for people to report it? Or are you going on tagging? Because I actually have the literature or the stickers and the cards encouraging the reports so how did this campaign affect the numbers?