

UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C.

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In the Matter of:

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:

PUBLIC HEARING REGARDING EXECUTIVE

:

ORDER 13178, ISSUED BY PRESIDENT

:

CLINTON ON MONDAY, DECEMBER 4, 2000,

:

ESTABLISHING THE NORTHWESTERN

:

HAWAIIAN ISLANDS CORAL REEF

:

ECOSYSTEM RESERVE

:

:

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Room 4830
DOC Building
14th & Constitution Avenue, N.W.

Wednesday,
December 13, 2000

The meeting was convened, pursuant to
notice, at 1:10 p.m., MS. LEE LANGSTAFF, Moderator,
presiding.

APPEARANCES:

MS. LEE LANGSTAFF
Moderator

MR. ELGIE HOLSTEIN

MR. ROGER GRIFFIS

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1:10 p.m.

1 MR. HOLSTEIN: Good afternoon, everybody.
2 I'm Elgie Holstein. I'm senior advisor to
3 Secretary Manetta.

4 I have been working behind the scenes on
5 the Northwest Hawaiian Islands issue for a number
6 of months, although the real work is actually being
7 done by lots and lots of other people. But I take
8 every opportunity I can to take credit for their
9 work with the Secretary.

10 And then of course I saw that I was going
11 to have my big opportunity in the public hearing
12 sessions that we're having in the aftermath of the
13 President's announcement last week because I heard
14 we were going to have a whole series of public
15 hearings.

16 And I said to Roger Griffis, "Roger, this
17 is it. I'm ready to go. It's getting cold here in
18 Washington."

19 And he said, "We're absolutely going to
20 have you, Elgie, at one of the public hearings. We
21 can't imagine doing it without you."

22 I said, "Terrific. Sign me up."

23 And then he informed me that he had
24 signed me up for the one here in Washington, while

1 all the other ones are out in Hawaii.

2 But I think that was a test of our
3 commitment to this essential issue, and I'm
4 delighted to be here representing the Secretary and
5 anxious to hear your comments.

6 The public hearing process, as I
7 mentioned, that we're undertaking this afternoon is
8 one of a series of opportunities that have been
9 offered over a period of weeks and months past.
10 And this represents a continuation of that, albeit
11 with more specificity now that the President has
12 made his announcement. We have more details on
13 which to solicit your views.

14 But earlier, of course, we had had the
15 public visioning sessions, one each on each of the
16 Hawaiian Islands. And I think those went very
17 well. And the Western Pacific Fishery Management
18 Council had also itself had public meetings and
19 comment periods that were available for people to
20 render their views on the subject as well.

21 Our purpose here today is first and
22 foremost, however, to hear from you and to take
23 this opportunity to gather your comments with a
24 view toward developing the final framework for the
25 long-term protection of the Northwest Hawaiian

1 Islands.

2 It's been the President's intent and the
3 Secretary's continuing commitment that we would do
4 this every step of the way in close collaboration
5 with and consultation with the public. And I
6 think, in looking quickly over the list of folks
7 who have signed in today, we are demonstrating,
8 with your presence here today, the fact that this
9 is an issue.

10 Though geographically so far from where
11 we sit this afternoon is one that has captured the
12 imaginations, the interests, and the participation
13 not only of the people of the Hawaiian Islands but
14 people many thousands of miles away who understand
15 what a precious national resource this is, one
16 whose attributes as a natural wonder and scenic
17 beauty need to be protected but at the same time
18 balanced with the interests of those who -- in
19 particular those who have been living in the area,
20 making a living or extracting things that they need
21 for their lives from the area. And we hope to
22 capture in these hearings that full gamut of
23 perspectives, that full range of perspectives.

24 So let me assure you that I'm not going
25 to carry on here, because we want to hear from you.

1 So I'm going to take a seat. We have Lee
2 Langstaff here with us who I want to introduce to
3 you next who's our facilitator. And Lee, who's
4 been helping us out for some time now, is going to
5 help us continue this process.

6 Lee, thanks.

7 MS. LANGSTAFF: Thank you. And welcome,
8 as well.

9 Before I do anything else, as you've
10 noticed we have a sign language interpreter here
11 today. And I want to check to see whether anybody
12 particularly would like her to continue to stay
13 here or would benefit from her services here today.

14 (No response)

15 MS. LANGSTAFF: If not, she'll leave us
16 her phone number in case somebody else comes who
17 does need it. And we won't ask her to spend all
18 the time with us if she's not needed.

19 Okay. Thank you, Kathy.

20 VOICE: Thank you.

21 MS. LANGSTAFF: So, welcome. As you
22 know, this is a public hearing regarding Executive
23 Order Number 13178, issued by President Clinton
24 last week on Monday, December 4th, establishing the
25 Northwestern Hawaiian Islands Coral Reef Ecosystem

1 Reserve.

2 This hearing, as Mr. Holstein noted, is
3 one of seven, the other six of which are being held
4 in Hawaii at several different locations this week.

5 These hearings are being conducted on
6 behalf of the President, who has specifically
7 requested comments on the conservation measures for
8 the reserve and on his proposal to make the reserve
9 preservation areas permanent.

10 This hearing has been organized by the
11 National Oceanic and Atmospheric Administration,
12 which we all know as NOAA, which is part of the
13 Department of Commerce.

14 My name, as has already been noted, is
15 Lee Langstaff. And I've been asked to moderate
16 this hearing and serve as the independent hearing
17 officer. I am not a federal or state government
18 employee. I do not represent any government
19 agency. I'm a private, non-profit provider of
20 neutral facilitation services.

21 Following this hearing the Department of
22 Commerce will pull together all of the comments
23 received and compile them with all of the others
24 that have been received from other hearings, by e-
25 mail, by fax, and by mail that are received by the

1 end of the designated comment period, which is
2 January 8th of next year.

3 All of the comments will be transmitted
4 then to the Executive Office of the President where
5 the White House will review them and make a
6 decision on any further action.

7 In addition to Mr. Holstein, we have a
8 couple of other representatives here from the
9 Department of Commerce and Interior. And I'd like
10 to have them introduce themselves to you now so
11 that you know who is hear listening.

12 MR. KENNEDY: David Kennedy. I'm with
13 National Ocean Service. I'm the Director of
14 Response and Restoration.

15 MS. LANGSTAFF: Great. Roger.

16 MR. GRIFFIS: My name is Roger Griffis.
17 I'm with NOAA's Policy Office.

18 MS. WHITE: Susan White. I'm here
19 representing the Fish and Wildlife Service,
20 Department of Interior.

21 MS. SIMONS: Lynn Ashley Simons. I'm
22 also with the Department of Interior, Office of the
23 Assistant Secretary for Fish and Wildlife and
24 Parks.

25 MS. LANGSTAFF: Okay. Thank you.

1 What I'd like to do now is to describe
2 how we're going to proceed here this afternoon,
3 before we open the floor for your comment.

4 First, we're going to review for you the
5 key portions of the Executive Order that bring us
6 here today. Roger Griffis will do that for us.
7 And after that we will go ahead and turn to your
8 comments using the following protocol: when you
9 walk in the room you should have seen a sign in
10 sheet, and I'm assuming that everybody here has
11 signed in. We'd like you to sign in even if you're
12 not making public comment today so that we have a
13 record of who attended the hearing.

14 And on the sign-in sheet you should have
15 indicated whether or not you were planning to speak
16 or submit written comment or both or neither, which
17 is also fine.

18 If you are offering public comment here
19 today for the record, what we'll do is have you
20 come up one at a time. Those of you who signed up,
21 we'll call you in the order in which you signed up.

22 As you can see, we have with us a
23 reporter who is going to be providing a transcript
24 of the hearing, Bill Moffitt, and his assistant,
25 and we'll be capturing your comments for the

1 record.

2 So when you come up to speak if you would
3 bring the index card on which you have written
4 clearly your name and affiliation so that we can
5 assist Mr. Moffitt in getting your names and
6 affiliations spelled correctly. That would be
7 great. You can give them right to Marla, who's
8 sitting up here at the front, and she will give it
9 to Mr. Moffitt.

10 If you have already prepared written
11 testimony that you'd like to submit this afternoon,
12 either instead of or in addition to your oral
13 comments, we're happy to accept those. There was a
14 box outside the door for that and if you didn't put
15 them there you can give them to me and we'll
16 compile them here as well.

17 As you probably know, if you prefer, you
18 may choose to submit your written comment directly
19 by mail or by fax. That should go to Roger
20 Griffis. We had a sheet of paper out on the table
21 with his contact information, if you'd like to do
22 that.

23 There's also, as you probably know, a
24 website address, which has the full Executive Order
25 and other related information regarding the Reserve

1 and its designation.

2 As I mentioned before, just to reiterate,
3 comments must be received no later than January 8th
4 in order to be considered. We promise that
5 everyone who wants to speak this afternoon will
6 have the opportunity to do so. We don't anticipate
7 any problem with that. We would ask that you limit
8 your remarks to a maximum of 10 minutes, at least
9 initially. And if you want to speak again we can
10 come around and have you speak a second time.

11 So as you approach, please bring your
12 index card with you and we will proceed as soon as
13 we have had an opportunity to hear from Roger
14 reviewing the nature of our business here today.

15 We, again, encourage you to focus your
16 comments on the key topics that President Clinton
17 has asked for for public comment on. Again, making
18 the Reserve preservation areas permanent and the
19 conservation measures for the Reserve.

20 Finally, I suspect that many of you have
21 been to public meetings that were frustrating or
22 counter productive where perhaps a few people
23 dominated. We know that people come to these
24 meetings with strong feelings sometimes. We know
25 some of you are really concerned about and feel

1 strongly about many dimensions of this subject. So
2 we ask all of you to abide by the following
3 protocols and courtesy: remember that everybody's
4 views are welcome, no matter what they are, and no
5 one will be excluded and lets respect one another,
6 assuming that there will be differences of opinion,
7 they're inevitable, and especially when we talk
8 about sensitive environmental and cultural and
9 social issues.

10 So when you're not speaking, please be
11 quiet and listen and refrain from clapping or
12 booing, which often has a way of discouraging
13 others from speaking openly.

14 When it's your turn to speak, please
15 speak clearly and adhere to a 10-minute maximum, at
16 least initially.

17 So in the spirit of the Hawaiian Islands,
18 I hope that we can handle any differences of
19 opinion voiced here with Aloha. And I ask you to
20 participate in that spirit.

21 So I'll go ahead and turn to Roger
22 Griffis for a brief review of the key points in the
23 Executive Order that we hope to address today and
24 then we'll start taking testimony.

25 MR. GRIFFIS: Great. Thank you, Lee.

1 Thank you all for coming. What we found
2 useful in the public meetings that have happened so
3 far -- this is the fourth of seven public meetings.

4 They started Monday night, two of them Monday
5 night in Hawaii. What we found was useful was just
6 to give a very brief orientation. Many of you may
7 be perhaps more skilled in the Executive Order than
8 even some of us, having read it extensively. But
9 we thought it was useful to give a brief overview,
10 orient ourselves to it.

11 This is not intended to be a question and
12 answer period. We just wanted to provide a little
13 orientation before taking the comments. And the
14 maps, both on the front and the back, and I believe
15 you all have a copy of the map in front of you, are
16 meant to kind of do that.

17 Most of you know, where the Northwest
18 Hawaiian Islands are and the reserve that President
19 Clinton designated stretches about a 1,000 nautical
20 miles from end to end and about 100 nautical miles
21 from side to side. They're represented by the blue
22 kind of worm shaped thing that's here. It's about
23 200 miles from the nearest, the western most of the
24 main Hawaiian Islands.

25 And it's important to realize that the

1 President's declaration applies a number of
2 conservation measures within the entire reserve,
3 within the entire blue area. And those measures,
4 those conservation measures is what the President
5 has asked for public comment on.

6 In addition, the President's declaration
7 establishes 15 reserve preservation areas, and
8 these are the areas in the purple here. And there
9 are additional protective measures that apply to
10 the preservation areas. And particularly, as Lee
11 said, the President has asked whether or not these
12 15 preservation areas should be named permanent.

13 The orange areas here represent the state
14 waters. It's important to realize that the
15 President's declaration does nothing within state
16 waters; it applies only outside of state waters, in
17 federal waters. So by the orange dots here we've
18 tried to indicate on this kind of course map that
19 the Reserve extends out from, seaward from the
20 three-mile circle around each of the islands,
21 within which are the state waters.

22 You should have a number of pieces of
23 paper that were out on the front table there.
24 They're probably the quickest quick reference guide
25 to what are these conservation measures and what

1 additional measures apply within the preservation
2 areas.

3 There's a little one pager that simply
4 says Northwest Hawaiian Island Coral Reef Ecosystem
5 Preserve Executive Order. And I'd like to just
6 read real briefly a summary of the conservation
7 measures. These are, again, measures that apply
8 throughout the entire blue part, throughout the
9 entire reserve. I'll just read very quickly.

10 It basically says, "All current existing
11 or recent commercial federal fishing permits and
12 levels and recreational fishing levels are capped."

13 Basically what that means is in 96 percent of this
14 entire area existing current fishing continues at
15 current levels and is capped at those levels.

16 In addition to those conservation
17 measures other activities are prohibited throughout
18 the Reserve, throughout the blue area, such as:
19 exploring for or producing oil, gas, or minerals;
20 anchoring any vessel on the living or the dead
21 coral; drilling into or dredging or otherwise
22 altering the seabed; and there are a number of
23 other types of general conservation measures that
24 apply, again, to the entire Reserve and blue areas.

25 The additional protective measures that

1 apply within the Reserve preservation areas are
2 such that -- and, again, I'll try to summarize here
3 -- basically within the Reserve preservation areas
4 all consumptive use of living marine and resources
5 is prohibited, and then there are a couple
6 exceptions.

7 As I said, there are 15 preservation
8 areas, consumptive use prohibited in all of them
9 except 8. In eight of these areas commercial
10 bottom fishing is permitted and would continue at
11 current levels.

12 So I think that's the overview of the
13 summary. We are here primarily to answer any -- if
14 we get stuck and there's a real technical question
15 and we need a brief clarification we're happy to
16 try and do that. As I mentioned though these
17 aren't designed to be question and answer type
18 seminars or anything like that.

19 So if we can help with any technical
20 clarification we're happy to. Otherwise we're here
21 to hear your comment.

22 Thank you.

23 MS. LANGSTAFF: Okay. Thank you, Roger.

24 Okay. I'd like to turn to our first
25 commenter. And the first one of you who signed up

1 to speak is Judy Olmer.

2 Judy, do you want to come up?

3 MS. OLMER: Yes. Thanks.

4 MS. LANGSTAFF: And, if you would, introduce
5 yourself, state your name and your affiliation.

6 And why don't you use the microphone right here.

1 STATEMENT OF MS. JUDY OLMER

2 MS. OLMER: Good afternoon. My name is
3 Judy Olmer. I'm a volunteer on the Sierra Club's
4 National Marine Committee on Wildlife and Habitat.
5 And I'm also chair of its marine mammal working
6 group.

7 I'm testifying today, however, as a
8 citizen. The Sierra Club will be submitting
9 written testimony within the period allowed for
10 public comments and it will provide more detailed
11 information on the Sierra's Club positions.

12 Along with many other citizens across the
13 nation I applaud the President's bold and visionary
14 action in establishing the Northwestern Hawaiian
15 Coral Reef Ecosystem. I urge him to proceed with
16 designation of permanent reserve preservation
17 areas, after hearing from the public.

18 The importance of this area, representing
19 about 70 percent of the coral reefs of the United
20 States, is underscored by the deterioration of many
21 of the other coral reefs around the world. In a
22 recent speech, Secretary of Commerce Manetta
23 stated, "It is shocking that two thirds of the
24 world's reefs may be dying and that 30 percent of
25 the world's reefs are already gone."

1 He went on to note that in Florida some
2 reefs have lost over 95 percent of their coral
3 since 1975. Even under ideal conditions it would
4 take more than a human lifetime for these reefs to
5 recover.

6 In contrast, we understand from Sierra
7 Club members in Hawaii that the reefs of the
8 Northwest Hawaiian Islands are still in good shape
9 and have thus far escaped the widespread bleaching
10 and diseases afflicting coral reefs in Florida and
11 elsewhere. These Hawaiian Islands remain one of
12 the few places on earth where a large coral
13 ecosystem still is in place.

14 This being the case, the President should
15 resist efforts by those who seek to block or weaken
16 the Executive Order in pursuit of short-term
17 economic interests. In fact, Sierra Club believes
18 that the order should be strengthened by setting
19 the depths allowed for bottom fishing at no less
20 than 50 fathoms.

21 Also, we believe that observers should be
22 required on all bottom-fishing boats in the Reserve
23 to assure that their operations do not harm monk
24 seals or coral reef resources.

25 And thank you for considering my views on

1 my important action. Thank you.

2 I understood it was three minutes so I
3 didn't prepare any more than that.

4 MS. LANGSTAFF: Thank you, Judy.

5 Well we were being flexible based on how
6 many people are here and who signed up to speak.
7 So if you think of something else and you want to
8 add your name at the end of the list, we can do
9 that. Thanks.

10 Okay. Cliff McCreedy. Thank you for
11 considering my views on my important action. Thank
12 you.

13 I understood it was three minutes so I
14 didn't prepare any more than that.

15 MS. LANGSTAFF: Thank you, Judy.

16 Well we were being flexible based on how
17 many people are here and who signed up to speak.
18 So if you think of something else and you want to
19 add your name at the end of the list, we can do
20 that. Thanks.

21 Okay. Cliff McCreedy. Thank you for
22 considering my views on my important action. Thank
23 you.

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25 didn't prepare any more than that.

1 MS. LANGSTAFF: Thank you, Judy.

2 Well we were being flexible based on how
3 many people are here and who signed up to speak.
4 So if you think of something else and you want to
5 add your name at the end of the list, we can do
6 that. Thanks.

7 Okay. Cliff McCreedy.

1 STATEMENT OF MR. CLIFF MC CREEDY

2 MR. MC CREEDY: Good afternoon. My
3 name's Cliff McCreedy. I'm president of Ocean
4 Watch.

5 Ocean Watch is a nonprofit organization
6 devoted to conserving the oceans and marine life
7 through education and citizen action.

8 Ocean Watch wholeheartedly supports the
9 President's Executive Order and the initiative that
10 he took to preserve this precious area in the
11 Northwest Hawaiian Islands. It's a historic
12 opportunity. It's going to be the second largest
13 marine reserve in the world, coming in a very close
14 second to the Great Barrier Reef Marine Park. As
15 such, we're taking a leadership position.

16 But it's also important to keep in mind
17 that even though you can call this area enormous,
18 really, in the context of what we've set aside in
19 the ocean ecosystem as of today as truly "no take,"
20 it's only a first baby step in that direction. And
21 as it stands, we would really encourage the
22 President to stay the course and to stick with the
23 proposal that he made in the Executive Order as
24 much as possible.

25 The Reserve protection areas we feel need

1 to be there, as proposed by the President, should
2 not be scaled back. And we'll be making more
3 specific comments in our written submissions.

4 But, again, this is really an historic
5 opportunity to create a marine protected area where
6 protected is really more than just a word in a
7 document. Protected means that we truly are
8 setting aside these precious resources in the
9 islands for future generations.

10 And, since I'm not talking to the White
11 House and the Department of Commerce, I just
12 encourage the Department to -- don't shrink from
13 the challenge just because you're in unchartered
14 waters and a time of political uncertainty. Stay
15 the course the President charted for you and do the
16 right thing and create a world-class reserve that's
17 worthy of these precious islands that the President
18 aims to protect.

19 Thank you very much.

20 MS. LANGSTAFF: Thank you, Cliff.

21 John Sibert. John, do you have your
22 card?

23 MR. SIBERT: Yeah, I do, if I can find
24 it.

25 STATEMENT OF MR. JOHN SIBERT

1 MR. SIBERT: My name is John Sibert. I
2 am on the faculty of the University of Hawaii. I
3 have appointments in the Department of Oceanography
4 and the Hawaii Institute of Marine Biology. I also
5 direct a research program on pelagic fishing at the
6 Joint Institute of Marine and Atmospheric Research,
7 a NOAA joint institute.

8 I serve on the Western Pacific Regional
9 Fishery Management Council, Scientific and
10 Statistical Committee, where my expertise in
11 population dynamics is relevant.

12 Last year I was a member of a National
13 Academy of Sciences Committee on improving
14 collection and use of data, fisheries data.

15 That the Northwest Hawaiian Islands coral
16 reef ecosystem is a unique national treasure worthy
17 of strong protection is not an issue. Rather the
18 issue is the process by which this area is
19 protected.

20 Congress has established a well-defined
21 policy for regulation of fisheries through the
22 Sustainable Fisheries Act and the Regional Fishery
23 Management Council.

24 The Western Pacific Council has been the
25 steward of marine resources in the Northwest

1 Hawaiian Islands for nearly 25 years. A recent
2 NOAA ecological survey of the Northwest Islands
3 concludes that the area is in pristine condition,
4 which demonstrates I think that current fishing in
5 the Islands is not having an impact on the
6 Northwest Hawaiian Islands ecosystem.

7 And I should point out that those blue
8 worms up there were established -- are coincident
9 with the boundaries that Council established
10 prohibiting long line fishing in the Islands.

11 As was pointed out earlier, there are
12 only two fisheries operating in the Northwest
13 Islands at the moment, both are very small.
14 They're bottom fish and lobster fishery. Contrary
15 to widely held but misinformed belief, neither of
16 the populations, the bottom fish or lobster
17 populations, are overexploited. In fact they are
18 exploited at very, very low levels.

19 Serious threats to the ecosystem in the
20 Northwest Hawaiian Islands do exist. However,
21 major efforts are required to ameliorate the impact
22 of marine debris and to enforce international
23 prohibitions on dumping of plastics at sea.

24 Abandoned and decomposing shore site
25 facilities such as breakwaters and seawalls need to

1 be either properly removed or restored to a
2 condition that does not endanger monk seals.

3 Improperly buried and disposed of
4 electrical equipment must be removed to halt
5 leakage of PCBs.

6 Aircraft operations in the vicinity of
7 albatross nesting populations need to be a bit
8 irregulated.

9 The Western Pacific Council has developed
10 an extensive coral reef ecosystem management plan.

11 This plan was developed by teams composed of coral
12 reef ecologists, fisheries experts,
13 environmentalists, staff of the Fish and Wildlife
14 Service, and other folks from around the Pacific
15 region.

16 This coral reef ecosystem management plan
17 is the very first ecosystem based fishery
18 management plan to be developed under the
19 Sustainable Fisheries Act. Among its many
20 prohibitions it regulates a broad spectrum of human
21 activities ranging from vessel transit to anchoring
22 and fishing.

23 The plan sets aside over 20 percent of
24 the Northwest Hawaiian Islands as "no take" marine
25 protected areas and consistent with the coral reef

1 initiative.

2 The coral reef management plan has the
3 support of fisherman active in our Northwest
4 Hawaiian Islands and approved by the Western
5 Pacific Regional Fishery Management Council this
6 year. Inexplicably the plan, or perhaps
7 explicably, the plan has languished at the NOAA
8 headquarters for several months.

9 President Clinton's Executive Order is a
10 well intentioned but I think misguided attempt to
11 subvert the fishery management process intended by
12 Congress and should be opposed or modified.

13 The coral reef ecosystem management plan
14 is the outcome of a legitimate fishery management
15 process established by Congress and should be
16 implemented without further delay.

17 And I must say that many of the elements
18 of the coral reef ecosystem management plan are
19 contained in the present Executive Order. I think
20 the question is one of process more than of
21 substance.

22 Thank you for your attention.

23 MS. LANGSTAFF: Thank you.

24 I have Jack Sobel next. Do you have your
25 card?

1

MR. SOBEL: Yes. I do.

1 STATEMENT OF MR. JACK SOBEL

2 MR. SOBEL: Good afternoon. I'm Jack
3 Sobel. I'm with the Center for Marine Conservation
4 and I'm representing that organization here.

5 I want to reiterate the previous comments
6 by members of the conservation community in terms
7 of our wholehearted support for the President's
8 Executive Order and for the Reserve generally. We
9 strongly believe that this provides an important
10 framework for protecting the very valued resources
11 surrounding the Northwest Hawaiian Islands.

12 We believe it provides a framework, but
13 that framework requires considerable follow
14 through. We view this as a cup perhaps half full
15 at best and we hope and believe in the
16 Administration's desire to follow through and fill
17 up the remainder of that cup.

18 Several people have remarked on the huge
19 area within the coral reef reserve. It does
20 provide an extraordinary opportunity for
21 conservation. However, as I would comment, that
22 large area is not the area that's being fully
23 protected.

24 On the second point, in terms of things
25 that we've been asked to comment on, we believe

1 that the coral reef preservation areas need to be
2 expanded and strengthened. These areas constitute
3 a relatively small area of the very large area in
4 the coral reef reserve. They have been described
5 by some as "no take" areas.

6 However, there's considerable consumptive
7 use allowed in the majority of area within that
8 relatively small group of areas being terms coral
9 reef preservation areas.

10 The "no take" areas within those, the
11 truly "no take" areas are remarkably small in terms
12 of the area they cover and in terms of the
13 percentage of the very large protected area that's
14 been commented on by many.

15 It may be the largest protected area in
16 the world by some standards but in terms of the
17 areas that are truly and tightly protected that's a
18 remarkably small portion of the entire area.

19 We believe that those coral preservation
20 areas should be made permanent, that they should be
21 made fully protected in the sense of being
22 completely "no take." We believe that the current
23 bottom fishing exemption that extends through much
24 of the area within those coral reef preservation
25 areas is especially problematic in particularly

1 that is used there, which allows for an undefined
2 expansion of current bottom fishing effort, which
3 I'll discuss in a minute, is particularly
4 problematic.

5 We agree with the ideas that those "no
6 take" provisions should be extended out to a depth
7 approaching 100 fathoms.

8 In terms of other conservation measures
9 and management principles, we generally support
10 those. We think that the management principles in
11 particular, the rhetoric behind those is very
12 strong and we support those and we believe they
13 should be made permanent through a rulemaking and
14 that those should be moved forward as quickly as
15 possible.

16 In terms of some specific comments on
17 those principles and conservation measures: with
18 respect to commercial and recreational fishing we
19 believe that the caps that are discussed in there
20 should be firm caps. As I mentioned earlier, the
21 language on bottom fishing is particularly
22 problematic and, as we understand that language, it
23 might allow for an increase of as much as 50
24 percent in terms of the current bottom fishing
25 levels.

1 And I think what's most problematic is
2 that the language is not clear. It talks about a
3 one time reasonable increase. And a one time
4 reasonable increase is disturbing to us, especially
5 since in conversations as to what that means it's
6 been suggested to us that that could lead to a
7 fairly substantial increase.

8 It would certainly be a poor legacy for
9 this administration to leave forward if the net
10 result that comes out of this ends up that the one
11 active fishery in the Northwest Hawaiian Islands at
12 this time is expanded as a result of the Executive
13 Order and the coral reef protected area.

14 We don't think that that was the
15 intention and we certainly hope that that does not
16 become a reality. We believe that the intention
17 behind that was to allow native Hawaiians to have
18 use of that area through permits which they have
19 not exercised to this point or have not been
20 granted to this point.

21 We certainly believe that native
22 Hawaiians should be given an opportunity to share
23 in that resource but we believe that that can be
24 accommodated within a cap on existing levels of
25 fishing.

1 With respect to the commercial and
2 recreational fishing conservation measures, we also
3 believe that they should recognize that those
4 activities may also be restricted in conjunction
5 with sections 5, 8, and 10 of the Executive Order.

6 We believe that with respect to precious
7 coral harvesting that we would not want to see that
8 that activity increased or exempted from other
9 protections that are afforded within the Executive
10 Order.

11 We believe that the anchoring measures,
12 as put forward, should be strengthened. We believe
13 that the VMS and notification requirements should
14 also be strengthened and that the while the IMO is
15 a useful tool and particularly recent changes in
16 IMO policy create an opportunity to create no
17 anchoring zones within the Northwest Hawaiian
18 Islands that with respect to VMS in particular that
19 much can be done in terms of domestic requirements,
20 particularly within the coral reef preservation
21 areas and the areas close to the islands.

22 And that there is not a need to wait for
23 IMO to act in terms of international regulations to
24 address commercial fishing and commercial tourist
25 operations and require VMS without or prior to

1 going through an elongated IMO process.

2 We believe, as an earlier speaker said,
3 that good coordination with the Hawaiian Islands
4 National Wildlife Refuge and with fully protecting
5 state waters within the identifiable coral reef
6 preservation areas is extremely important, we would
7 not want to see this affect continued protection of
8 those areas.

9 We question the statements about the
10 pristine status of this area. We do believe that
11 this area has benefited from its remoteness;
12 however, to term this area or almost any area of
13 the oceans today as pristine would be an enormous
14 mistake.

15 If one looks just at the situation with
16 the Hawaiian monk seal it is clear that that
17 species is on the brink of extinction. And to
18 return an ecosystem supporting that species as
19 pristine when it is at that point, and that is just
20 one example.

21 Fishing has had an impact on the area.
22 It's one of the primary threats or impacts to the
23 region. We believe that WESPAC has a role to play
24 and the fisheries management council process has a
25 role to play but that the oceans are not out there

1 exclusively for the purpose of fisheries. And that
2 fisheries management is just one aspect of what we
3 should be doing on the oceans.

4 Finally, the coral reef ecosystem
5 management plan, that was referred by an earlier
6 speaker, was perhaps a step in the right direction
7 from a fisheries perspective, however, there is
8 more to fisheries in the oceans, and particularly
9 in this area where there's an opportunity to
10 protect an ecosystem for perpetuity.

11 Thank you and we will be submitting more
12 detailed written comments in the future.

13 MS. LANGSTAFF: Thank you.

14 Is there anybody else who signed up to
15 make public comments whose names I don't have?

16 (No response)

17 MS. LANGSTAFF: Is there anybody who
18 didn't sign up to make oral comment who has changed
19 their mind and would like to now?

20 (No response)

21 MS. LANGSTAFF: Okay. Let me ask also
22 then if there is anyone who has a clarification
23 question? As Roger suggested, they might be able
24 to help you with clarification, meaning something
25 about the Executive Order's not clear. Not that it

1 is clear and you may or may not agree with it.

2 Are there any clarification questions?

3 Okay. Let me start over here. Would you
4 come up to the mike, please, and ask your question
5 so that we can capture it?

6 MR. MC CREEDY: Cliff McCreedy with Ocean
7 Watch. And the section on -- section 7A on
8 commercial fishing that was alluded to by Jack, can
9 you tell us what is meant by reasonable increase to
10 the total aggregate to allow for the use of two
11 Native Hawaiian bottom fishing permits?

12 MS. LANGSTAFF: I'm not guaranteeing that
13 there are answers to the questions, but we'll offer
14 them the opportunity to provide what they know.

15 What section was it again?

16 MR. MC CREEDY: 7A(1)C.

17 MR. GRIFFIS: I'll find it. I'll give a
18 short answer, and I don't pretend to have a
19 complete answer to this.

20 My understanding -- and it's very
21 fortunate that we have a member of -- I believe you
22 said you were a member of the WESPAC Council at the
23 moment, or maybe their advisory committee.

24 MR. MC CREEDY: Yes.

25 MR. GRIFFIS: Thank you. So perhaps we

1 can give further clarification.

2 My understanding is there are a -- that
3 council has -- there are a set number of permits
4 for the bottom fishery at the moment. I think it's
5 15, if I'm correct.

6 Only some number of those, I believe it's
7 eight, have been used to date. And I believe that
8 the intent of the Order was to cap the fisheries at
9 their current allowable levels, which may be the
10 use of all 15 of those permits.

11 And I believe the section you're talking
12 about is to allow the Secretary of Commerce to work
13 with the Fishery Management Council to figure out
14 what an equitable cap would be, given that there
15 were 15 permits but not all of them were being used
16 in the last few years. So potentially a cap at
17 only the eight used permits would perhaps exclude
18 those that hadn't used them in the past couple
19 years.

20 The other part of that section, if I
21 remember right, speaks specifically to the Native
22 Hawaiian designated permits that have not been
23 used. And so the concern was that the cap should
24 be set with enough flexibility by the Secretary of
25 Commerce to incorporate the current users or the

1 current permit holders in this fishery.

2 And, I know, it does get complex and
3 that's why it was left to the Secretary of Commerce
4 to work with the WESPAC to figure out what that cap
5 would be.

6 That's it. I hope that helps a little
7 bit.

8 MS. LANGSTAFF: Jack? Another question?

9 MR. SOBEL: I had one kind of general
10 question about the process from here on in and what
11 is anticipated in terms of -- we understand that
12 we're giving comments now, is this part of a
13 rulemaking process, and what the next steps with
14 regard to that will be.

15 And a specific question, I was wondering
16 if there was an answer to, is I saw on the website
17 there's quite a bit of information about the total
18 area in the coral reef in a coral reef preservation
19 areas. But I'm wondering if there is a figure for
20 either the percentage in "no take" or the square
21 mileage in "no take?" And so that was kind of a
22 specific question that if you had an answer to
23 handy I'd be interested in it.

24 MR. GRIFFIS: Let me see if I can deal
25 with those. This is not part of a rulemaking

1 process. That will come after, I believe -- I'll
2 look to my colleagues here -- after we get whatever
3 final decision from the President is made. Then
4 there will be rulemaking activities by the
5 Department to implement the final decisions, the
6 final part of the Executive Order.

7 The process is that the President asked
8 the Secretary of Commerce to collect public comment
9 for the next 30 days on what we've been talking
10 about on these conservation measures and the
11 permanency of the preservation areas. We will take
12 all the comment, hand it to the White House, and
13 work with them in whatever way they see fit to help
14 the President make some final decisions. And we
15 don't have any indication on timing or further
16 process beyond that. We will do our job in
17 delivering the public comments and then it's up to
18 the White House to take any further action, if so
19 desired.

20 After that the Secretary of Commerce,
21 unless there are further changes that change this,
22 the Secretary of Commerce will have to do some
23 rulemaking to implement this, whatever the final
24 package is. So that's a different process down the
25 road into the New Year.

1 Your other question about area: we do
2 have some numbers. I don't have them at my
3 fingertips. I know that as I alluded to the
4 preservation areas, if you add up all the
5 preservation areas it comes out to be about four
6 percent of the entire reserve area. And I believe
7 on the website, but maybe not, we have how much
8 that is in square nautical miles or acres or that
9 kind of thing.

10 And I'll look to my colleagues. Does
11 anyone remember what that four percent is? I mean
12 the total reserve is about 84 million acres -- four
13 percent, someone can quickly do that. I think it's
14 maybe -- I won't even guess.

15 But, remember, within the preservation
16 areas, I think this is what you're getting at, how
17 much of that is "no take." And I'd have to go back
18 and add up. As I said, 7 of the 15 preservation
19 areas are completely -- where fishing is completely
20 restricted. And we could add that up for your and
21 I'd be happy to provide that later.

22 MS. LANGSTAFF: Any other questions or
23 points of clarification?

24 (No response)

25 MS. LANGSTAFF: Okay. The next thing I

1 was going to do was to ask Roger to tell us what
2 the next steps were, but since he's just done that
3 maybe we don't need to do that again.

4 Yes. Would you state your name and your
5 question please?

6 MR. SIBERT: John Sibert, again.

1 STATEMENT OF JOHN SIBERT

2 MR. SIBERT: I'll just clarify a little
3 bit on the bottom fish fishery. Participation in
4 that fishery is severely limited. The permits are
5 few. I also can't remember the exact number. But
6 they have what's called a "use it or lose it
7 permit" and if you don't actually use your permit
8 you lose it and your permit goes to others on the
9 waiting list.

10 The number of permits is established by a
11 process, which is -- basically it's the number of
12 boats that can make a living fishing there based on
13 the productivity of the stock and the expected
14 revenues from the fishery.

15 Those populations, as everyone knows, are
16 very slow growing so you can't harvest them at a
17 very large rate, so that's why the cap is so low.
18 And I think the current harvest rate is about half
19 of what you could expect if it was a fully
20 exploited stock.

21 As for the mileage, I don't know what the
22 mileage is. But if you can get buy in from the
23 state on those state waters, as the council
24 apparently did, you can get up to the 20 percent
25 recommended in the coral reef initiative.

1 Thanks.

2 MS. LANGSTAFF: Thank you.

3 Anybody else want to make a comment
4 before we close?

5 (No response)

6 Okay. Well having taken the few minutes
7 to share your perspectives and your thoughts on
8 this Executive Order I want to thank you for your
9 courtesy, thank you for coming to the hearing.

10 I want to note that the turnout at the
11 hearings in Hawaii have been I think significantly
12 larger.

13 (Laughter)

14 So this is not necessarily an indication
15 of the level of interest and amount of comment that
16 is being put forward.

17 I want to thank our Interior and
18 Department of Commerce representatives for being
19 here and listening to your comments as well and
20 wish you all a good rest of the day, rest of the
21 week, and holiday.

22 Thank you for coming.

23 (Whereupon, at 1:57 p.m., the hearing was
24 concluded.)

C E R T I F I C A T E

This is to certify that the foregoing proceedings of a public hearing held before the U.S. Department of Commerce on December 4, 2000, were transcribed as herein appears and that this is the original transcript thereof.

WILLIAM J. MOFFITT
Official Court Reporter