

***NORTHWESTERN HAWAIIAN ISLANDS
CORAL REEF ECOSYSTEM RESERVE ADVISORY COUNCIL***

November 13, 9am – 12:30 pm

*ONMS Pacific Islands Region Conference room
Hawai'i Kai, O'ahu*

Draft Meeting Minutes
November 13, 2013

ATTENDEES

Voting Members: Tim Johns (State of Hawai'i, Chair); Linda Paul (Conservation, Vice-Chair); Kem Lowry (Citizen-At-Large, Secretary); Rick Lee (Ocean-Related Tourism); Bill Gilmartin (Research); Tammy Harp (Native Hawaiian); Louis "Buzzy" Agard (Native Hawaiian); Pelika Bertelmann (Native Hawaiian); Gail Grabowsky (Education); Cindy Hunter (Research); Brian Bowen (Research Alternate for Gilmartin); Judith Cucco (Conservation Alternate for Wooley); and Carol Wilcox (Conservation Alternate for Thompson).

Non-Voting Members: Dennis Rowley (Department of Defense); and David Swatland (Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (NWHI CRER)).

Absent: Laura Thompson (Conservation); Rick Gaffney (Recreational Fishing); Don Schug (Research); Bobby Gomes (Commercial Fishing); David Laist (Marine Mammal Commission); Michael Lesser (National Science Foundation); Douglas Staller (U.S. Fish and Wildlife Service (FWS)); and Eric Roberts (U.S. Coast Guard).

[All Papahānaumokuākea Marine National Monument (PMNM) Staff]: Office of National Marine Sanctuaries (ONMS): Hoku Johnson, Katie Gentry-Ackerman, and Alyssa Miller.

[Members of the Public]: Barb Mayer.

PURPOSES OF THE MEETING:

- 1) Receive updates on ONMS initiatives and related efforts
- 2) Presentation on the National Marine Sanctuaries Act
- 3) Continued discussion on Management Plan Evaluation Pilot Project

I. CALL TO ORDER (JOHNS)

Council Chair Tim Johns called the meeting to order. Introductions followed.

II. REVIEW OF AGENDA AND APPROVAL OF MINUTES (JOHNS)

Mr. Johns reviewed the day's agenda. Minutes from July 26, 2013 were reviewed and approved as circulated (no motion).

III. REVIEW OF ACTION ITEMS AND STATUS (Gentry-Ackerman)

1. Shark Conservation Act (SCA) letter: Ms. Gentry-Ackerman reported that the SCA letter was drafted by leadership and as per Reserve Advisory Council (RAC) request was forwarded to Mr. Swatland and then on to Acting Assistant Administrator for Fisheries Sam Rauch, via the official controlled correspondence procedures. Official response will be reported back to the RAC as it is received. Mr. Johns asked which U.S. Senator raised similar questions regarding the SCA proposed rule and Mr. Swatland reported that it was Senator Rockefeller.
2. Letter supporting Dr. Isabella Abbott's nomination to the new Dr. Nancy Foster Memorial Garden in the Florida Keys National Marine Sanctuary: At the July 26, 2013 meeting the RAC

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passed a motion approving a letter supporting Dr. Abbott’s nomination to the Nancy Foster Memorial Garden as drafted by ONMS staff. Gentry-Ackerman reported that, as requested by the RAC, the letter will be held with ONMS until nominations are again opened for the Dr. Nancy Foster Memorial Garden at which time ONMS will re-submit Dr. Abbott’s name and the letter will be forwarded as appropriate. Mr. Swatland predicted that nominations would likely occur in the spring or summer of 2014.

3. Letter thanking Koehnen family for their generous support of the Mokupāpapa Discovery Center in Hilo, Hawai‘i: Gentry-Ackerman reported the letter was drafted, signed and mailed as requested by the RAC. The letter was distributed to members.

IV. MEMBER SELECTION PROCESS UPDATE (Gentry-Ackerman)

Gentry-Ackerman reported that there are currently three applicants for the two positions. In order that those interested in applying are given as much opportunity to do so, ONMS is re-advertising the positions in the Federal Register. Current applicants were given the option of forwarding their applications and they all stated they would like to have their applications moved forward. The deadline for the next round of applications is December 31, 2013.

V. MONUMENT CO-TRUSTEE / MANAGEMENT AGENCY UPDATES

NOAA Report (Swatland): Mr. Swatland reported on ONMS activities from July 27 to November 13, 2013. He announced again that Dr. Abbott was not selected for the initial round of the Nancy Foster Memorial in Florida, but that ONMS will continue to advocate for her recognition at that site. Mr. Swatland reported that ONMS office hosted a three-day workshop, led by Heidi Schuttenberg, to finalize the content of its Climate Change Action Plan (CCAP) to be included in the upcoming PMNM management plan review. This was the third and final in a series of workshops and brought together more than 50 experts on climate change and related fields. Swatland also reported on PMNM’s Andy Collins’ efforts on the curriculum *Winged Ambassadors* and *Navigating Change*. Recent efforts have been directed at getting the curriculum out into the hands of young students across the state. Swatland also reported on a recent award given to Field Operations team member Brian Hauk: Mr. Hauk was named 4th Quarter NOS Safety Pro Award winner. Mr. Hauk works diligently to keep all the divers safe and the boats in good working order. Next, Swatland reported on PMNM and ONMS’s support of the Hōkūle‘a and Hikianalia as they prepare for the World Wide Voyage and Hikianalia’s sail to Nihoa as part of the World Wide Voyage. ONMS performed hull inspections prior to Hikianalia’s entry into the Monument. Ms. Bertelmann reported on the cultural work performed on a recent cruise to Nihoa, including efforts related to collecting oral histories from Kaua‘i and her experience in the Monument as Native Hawaiian cultural practitioners working on Nihoa greeted Hikianalia. Relating to the ONMS office move to Ford Island, Mr. Swatland reported that the move should occur at the end of January and by moving at this slightly earlier date the office will save approximately \$80,000 in rent paid to the current location. The Mokupāpapa Discovery Center is on track to open in mid-February (note, the opening was later moved to March 15th). Swatland also relayed some of the impacts of the government shutdown, one of which being the delay of a *Baited Remote Underwater Camera*-focused cruise and also the delay of a Monument Management Board (MMB) meeting.

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VI. NEW BUSINESS

Presentation on the National Marine Sanctuaries Act (Swatland):

Mr. Swatland presented a copy of the National Marine Sanctuaries Act (NMSA) and reported that his presentation would focus on the tools the NMSA provides for national marine sanctuaries. Generally, Mr. Swatland recommended that the RAC draft a letter with their questions to send to the ONMS Director. Mr. Swatland stated that it is likely the Governor of the State of Hawai‘i would need to approve the action if the sanctuary was to be co-managed with the State, similar to the Hawaiian Island Humpback Whale National Marine Sanctuary (HIHWNMS). Following this introduction, Mr. Swatland provided a brief presentation on the NMSA. Tools provided by the NMSA include the power to issue regulations, the power to periodically update management plans, and allows NOAA and ONMS to assess civil penalties for permit violations. Additional tools include the establishment of advisory councils, and the ability to leverage damage assessment funds. Mr. Johns asked what Commerce’s perspective would be in terms of restrictions or downsides that would result from Sanctuary status. Mr. Swatland clarified that Mr. Johns was asking for downsides that would apply to both NOAA-monument managers (ONMS and the National Marine Fisheries Service (NMFS)) and stated that he could not think of any. Mr. Johns acknowledged that interagency conflict has existed for some time, but that at this time the RAC should consider Sanctuary status through the perspective of each RAC member’s respective constituency body and if Sanctuary status would be in the best interest of each constituency. Once RAC members have come to a conclusion arising from that perspective, Mr. Johns continued, and then the RAC could consider each managing agencies stance related to the NMSA and sanctuary designation. Mr. Swatland encouraged the RAC to go through the process that Mr. Johns outlined and determine if it is something they support; if so, a letter drafted to ONMS would be a good first step. Sending the letter may initiate some action on the part of ONMS. Mr. Johns asked how we could guarantee that the protections in place (including Proclamation 8031 and the Particularly Sensitive Sea Area) would not be changed during the designation process. Mr. Swatland stated that that question is also a primary concern of the PMNM partner agencies. Ms. Paul stated that the Presidential Proclamation creating the Monument “overlays” existing protections, so it would be expected that any new protections would as well.

Ms. Bertelmann asked about the impacts of sanctuary designation to Native Hawaiian activities including subsistence fishing and access. Mr. Swatland acknowledged that a lot of community dialog would need to be conducted, and that dialog would start with talking to RAC members. Mr. Johns stated that one concern may be that groups or individuals who had issues with the effects of Presidential Proclamation 8031 could potentially have an opportunity to address them during a re-opened sanctuary designation process. Mr. Swatland stated that it may also open up the Memorandum of Agreement (MOA) signed by the three co-managing agencies. Dr. Bowen presented a research perspective on permitting, stating that he was concerned about access to the Monument. Dr. Bowen stated the permit process is too stringent, and there are communication gaps between management, stakeholders and permittees, and that the Proclamation is restrictive regarding research e.g. the Proclamation Findings include the following criteria: “no practical alternative,” “the end value,” “highly-qualified research.” Dr. Bowen referenced the National Marine Sanctuaries Act (NMSA) and favored the NMSA language which, in his opinion was broader. Dr. Hunter presented an alternate view, while acknowledging that Dr. Bowen had a difficult time in the Monument permitting process and that she had not obtained a permit through the process, stating that it is rigorous for a reason. Mr. Swatland stated that, largely, the

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permit process functions as it is required to as directed by the Proclamation. Mr. Swatland recognized that Dr. Bowen recently had a more difficult than average experience; Mr. Swatland apologized for that, and continued that, by and large, the permitting process protects the Monument. Dr. Bowen stated that the number of permits issues each year is going down and that he knows research activities are not being carried out because the difficult permitting process scares people. Mr. Johns then stated that the discussion around permitting makes the case that re-opening the Sanctuary process may ignite conversation and debates around access issues. Mr. Johns continued, remarking that it was also possible that elected officials may write legislation differently that what is now in place and that the current President may draft a new piece of legislation that is different and reflect the current views of constituency groups and that we would have to live with that. Ms. Bertelmann presented her experience as someone who was applying for a permit from the Native Hawaiian perspective; Ms. Bertelmann acknowledged that there are a series of hoops to jump through, but she does appreciate the checks and balances and that the process raises the bar for those who want to access the Monument. Dr. Bowen stated that the common cause is fair and reasonable access. Mr. Swatland stated that the permitting system does nothing but carry out the regulations as written in the Proclamation; the process can be lengthy, but is carried out as the Proclamation requests. Mr. Swatland continued that he believes it is as fair and balanced a process as he has seen in the government.

Ms. Paul stated that she is concerned that the at some future point the NWICRER will be deemed as no longer relevant and that the RAC will then be dissolved, resulting in a lack of an advisory council for the NWHI. Mr. Johns and Mr. Swatland then recognized that once a Sanctuary is established, an advisory council would be legitimized and operate as part of the Sanctuary system. Mr. Johns noted that during the interim period (between dissolution of the RAC and the creation of a SAC) there would be no Advisory Council and that such a state could last for years. Ms. Paul recognized that one of the greatest influencing factors in the issue at hand is the political timing of events. Mr. Johns stated that he believed that the RAC should draft a letter to ONMS addressing the question of legal limbo and stating that the current protection scheme and structure is not perfect, but that it is something that has been worked hard on and is in place and is generally accepted, and is working, and absent the protections or additional tools one could get by having the Monument be part of the NMSA, the RAC should raise that question. Mr. Lee asked to whom the letter would be addressed. Mr. Swatland stated that the letter is addressed to him and that he then forwards it to Mr. Dan Basta, the Director of the Office of National Marine Sanctuaries. Mr. Johns stated that the RAC could at least get the letter on his radar. Mr. Swatland stated that the letter would help him in his position as he would then be able to better explain the position to MMB partners. Mr. Johns also asked for some clarity from the partners. Mr. Johns stated that leadership would draft a letter and circulate it. He reiterated that it is important that the RAC be proactive instead of reactive. Mr. Swatland reiterated that doing nothing is an option. Mr. Johns stated that if status quo is too risky, then the alternative is to follow the Sanctuary designation process; he would like to see where Mr. Basta weighs in on this. Mr. Johns would also like to hear from Chair William Aila to determine his position; if the state of Hawai'i is supportive of NWHI sanctuary designation, ONMS has a much better chance. If the state is opposed, it would be much more difficult. Mr. Swatland noted that Mr. Basta is planning to meet with Mr. Aila next week when he visits. Mr. Johns suggested that the issue be presented to Mr. Basta and see where he stands. Mr. Swatland agreed that he would do so. Ms. Cucco asked if it would be beneficial to have the letter prepared for Mr. Basta so that it would be ready when he arrived. Ms. Paul stated that she could have the letter prepared.

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Action: Motion to draft a letter addressing Sanctuary status for circulation to the RAC and delivery by Mr. Basta’s Hawai‘i visit next week.

Ms. Paul moves to action and Ms. Hunter seconds. The action passes unanimously by verbal vote.

VII. DISCUSSION: MANAGEMENT PLAN EVALUATION PILOT PROJECT UPDATE

Dr. Lowry provided a brief report on the current Action Plan (AP) review subcommittee. He stated that there have been several discussions of the APs and what was completed under each of the APs. In September when the Management Plan / Evaluation Subcommittee met (as a reminder all RAC members are invited to participate) they talked about the Agency Coordination action plan. There was discussion over the last few years about what questions should be asked related to evaluation of progress on each action plan. Dr. Lowry stated that Ms. Johnson and Dr. Miller have come up with a good template. Due to Dr. Miller’s interviews there is a great deal of quality information now. The next step of the review is “what does this all mean?” and what are the implications of what we have. Part of what was discussed were factors that influence Agency Coordination was management philosophies and mandates regarding conservation among the partners, confusion of roles and authority, significant difference amongst agency management, and budgets varying considerably resulting in differing abilities to implement plans. The group also discussed what the RAC could be doing. This included pushing for the Monument Alliance so the RAC could provide input to all Monument partners, continuing to advocate strongly for the U.S. Fish and Wildlife Service on Midway because their staffing levels are way down, encouraging OHA to come to RAC meetings more and to be a more active partner and finding ways of better observing what the partner agencies are doing. After Dr. Lowry concluded, Ms. Paul asked about next steps. Dr. Lowry stated there is one more meeting (Marine Conservation Plan and Marine Debris). Ms. Paul stated that hearing the discussions at the last meeting were very helpful in understanding the process. Dr. Lowry stated that it was helpful in understanding the granular level challenges; solving larger scale issues might be easier if the small challenges were addressed. Ms. Johnson stated that the meetings create was a good opportunity for agency management to speak with the RAC, both groups gaining insight into the work of the other. An email will be sent out shortly inviting all the RAC members to attend if they wish.

VIII. PUBLIC COMMENT

Ms. Barb Mayer was in attendance, but had no comments.

IX. Discussion and potential actions related to the day’s agenda (All)

1. Items for next meeting—None noted
2. Schedule of 2014 meetings—Tentative schedule of April, July and late October / early November.
3. Announcements
 - i. Ms. Johnson addressed logistical matters relating to the RAC visiting the NOAA building on Ford Island.
 - ii. Ms. Paul provided an update on the O‘ahu discovery center. Currently, Ms. Paul visited Hawai‘i Pacific University (HPU) and was offered a temporary building and a corner lot.

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HPU came before the land board and DLNR owns the land on which HPU and Sea Life Park sits. Chair Aila (DLNR) considers it a great partnership as it is in alignment with DLNR's mission. It is intended to be a joint effort between the Hawaiian Island Humpback Whales National Marine Sanctuary and PMNM.

- iii. Dr. Hunter reported that the UH Zoology grad students are hosting Sylvia Earle during the March 11-16, 2014 39th Albert L. Tester Memorial Symposium. Dr. Earle will give two presentations.

ADJOURNMENT

Mr. Johns adjourned the meeting for the day.