



Protecting Native Hawaiian Traditional and Customary Rights  
and Our Fragile Environment

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Director Laura Thielen  
Department of Land and Natural Resources  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

April 29, 2008

Aloha Ms. Thielen,

We are writing today both to inquire and express our objections to the 30-day limit placed on public comments for the Papahānāumokuākea Marine National Monument (Monument) Draft Management Plan (DMP) for review and response by the State. First, and most importantly, it seems in principle to contravene the expressed desire of the state to provide maximum opportunities for meaningful public participation. In addition, truncating the state comment period in this way actually undermines public participation because it was not accurately promulgated to the public. Finally, this shortened comment period violates state law, which requires the state and federal public comment periods to be consistent.

The public comment period for the Monument DMP is advertised to be 75-days long, ending July 8, 2008. Indeed, the federal co-managers are accepting public comments for the entire 75-day period. However, based on our April 8th meeting with the three co-managing agencies, it is our understanding from the state co-manager, Athline Clark, that the state will only be responding to public comments received in the last 30 days of the 75-day comment period. This means that those public comments sent to the co-managers during the majority (45 days) of the comment period will not be considered by the state. This contradicts the state's stated commitment to ensure full and meaningful public participation in this process.

Furthermore, the public notice postcards regarding the 75-day public comment period fails to indicate this fact. Directly, below the logo for the State Department of Land and Natural Resources, the postcards states:

"...the comment period begins April 23, 2008 and ends 75 days later on July 8, 2008. Only comments submitted within this timeframe will be considered."

This language fails to explain to the public that any comments they send to the co-managers prior to June 8, 2008 will not be considered at all by the state.

Finally, Hawai'i state law mandates consistency with federal public comment periods whenever possible. Hawai'i Revised Statutes (HRS) §343-5(f) provides that when the

environmental review is subject to both state and federal jurisdiction state agencies “shall cooperate with federal agencies..., [s]uch cooperation, to the fullest extent possible, shall include joint environmental impact statements with **concurrent public review** and processing at both levels of government.” (HRS §343-5(f)).

The state can very simply rectify this serious procedural problem by formally extending the state comment period and responding to all public comments received between April 23, 2008 and July 8, 2008. The **minimum 30-day** public comment period required by HRS § 343-5(1) and Hawai'i Administrative Rules § 11-200-9.1(b) does not bar the state from extending public comment periods, particularly when the document under review is of great public interest, complex, or lengthy. In fact, the state has exercised this discretion in the past, giving the public a greater opportunity to review environmental impact statements (EIS) concerning high profile and complex material (e.g., La'au Point, Wa'ahila Ridge).

As the long-standing local advocate for the strongest possible protections in the Northwestern Hawaiian Islands, we strongly recommend that the state re-consider its position on the 30-day public comment period. Given the length (1,200 pages), complexity, and heightened public interest in the Monument DMP and its companion environmental assessment (EA), the state should treat this EA more like an EIS in regards to the opportunity for meaningful public review and comment.

By Governor Lingle's own accounting, as well as the 57,000 comments received on the draft sanctuary plan, it is clear that public participation has played a vital role in the creation of the Monument. Yet, in the two years since its establishment there has been little to no public engagement in what is ostensibly a "people's monument." Now, as the door re-opens in this process, we are simply seeking to ensure that the voice of the public is duly respected with a meaningful, legitimate opportunity to provide input. We ask only that the state comment period be made consistent with that of the federal co-managers--a full 75-days, rather than 30.

Mahalo,



Marti Townsend  
Program Director



Miwa Tamanaha  
Executive Director

cc:

Mark Bennett, Hawai'i Attorney General  
Clyde Nāmu'ō, Office of Hawaiian Affairs  
Athline Clark, DAR  
'Aulani Wilhelm, NOAA  
Susan White, USFWS  
Members, NWHI Coral Reef Ecosystem Reserve Advisory Council