



AUG 2- REC'D

July 30, 2004

William S. Devick, DLNR
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Re: Reserve Advisory Council Comments on the State Proposed Rules for the
NWHI Marine Refuge

Dear Mr. Devick,

This letter is in response to the enclosed resolution passed by the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Advisory Council at their meeting July 8, 2004. I am writing this letter on behalf of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Advisory Council, through provisions contained in the charter for this organization, which specifies that requests for information, assistance of advice shall be made in writing and coordinated through the NOAA representative.

Enclosed please find the Reserve Advisory Council's resolution on the DLNR NWHI Marine Refuge proposal. We would appreciate you giving these recommendations strong consideration as you refine and finalize your proposal.

Sincerely,

Robert P. Smith
Reserve Coordinator
NWHI Coral Reef Ecosystem Reserve

Enclosure

cc:
Mr. Timothy Johns
Ms. Athline Clark
Ms. Moani Pai ✓



**RESOLUTION REGARDING STATE PROPOSED RULES
FOR THE NWHI MARINE REFUGE**

**RECOMMENDATION OF THE NWHI CORAL REEF ECOSYSTEM
RESERVE ADVISORY COUNCIL
TO
THE NWHI CORAL REEF ECOSYSTEM RESERVE**

JULY 8, 2004

The Council notes the following:

1. The NWHI Coral Reef Ecosystem Reserve Advisory Council (RAC) and its Fisheries and Zoning Alternatives Subcommittee (FZAS) have reviewed the proposed Chapter 13-60.5 of Title 13, Hawaii Administrative Rules, entitled "Northwestern Hawaiian Islands Marine Refuge," submitted by the State of Hawaii, Department of Land and Natural Resources.
2. The Department of Land and Natural Resources will provide the proposed Rules for public review and comment in July 2004.
3. §13-60.5-5 of the State's proposed rules is inconsistent with the Goals and Objectives of the proposed Northwestern Hawaiian Islands Sanctuary.
4. The RAC will provide comment in the form of a letter to Robert Smith, Reserve Coordinator, indicating how the proposed rules should be changed to be consistent with the Goals and Objectives of the proposed sanctuary.

The Council recommends that:

Robert Smith to draft a letter to the Department of Land and Natural Resources, on behalf of the RAC, for submission as public comment on the proposed rules pertaining to the Northwestern Hawaiian Islands Marine Refuge. The letter should indicate that the RAC recommends the following:

1. The State of Hawaii, Department of Land and Natural Resources amend their proposed Administrative Rules pertaining to the Northwestern Hawaiian Islands Marine Refuge to make them consistent with the Goals and Objectives of the proposed Northwestern Hawaiian Islands National Marine Sanctuary.
2. The following section of Chapter 13-60.5 of Title 13, Hawaii Administrative Rules, should be changed to read:

§13-60.5-5 Permitted activities. (a) A person may, with valid permit issued from DAR, enter the refuge and take marine life for noncommercial purposes using the following methods and gear while in the refuge:

- (b) Trolling for pelagic species;
- (c) Pole-and-line fishing.
- (d) A person may only enter the refuge to engage in activities that do not degrade the coral reef ecosystem, related marine resources and species as specifically authorized by law for the following purposes:
 - (1) Noncommercial scientific, conservation or educational purposes;
 - (2) Non-extractive purposes determined through the permit review process to be compatible with the purposes of the Refuge; and
 - (3) Noncommercial subsistence, cultural, and religious uses by Native Hawaiians consistent with the long-term preservation of the refuge resources in accordance with permit conditions specified in section 13-60.5-6.
- (e) Even with a valid permit, the department may prohibit entry into any location or locations within the refuge as it may deem appropriate to conserve or manage resources.
- (f) No entry is allowed for extractive activities in the refuge, except as may be allowed by permit.