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
## INDEX

<table>
<thead>
<tr>
<th>NAME OF WITNESS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>JUDY OLMER</td>
<td>18</td>
</tr>
<tr>
<td>CLIFF MC CREEDY</td>
<td>22</td>
</tr>
<tr>
<td>JOHN SIBERT</td>
<td>24, 42</td>
</tr>
<tr>
<td>JACK SOBEL</td>
<td>29</td>
</tr>
</tbody>
</table>
MR. HOLSTEIN:  Good afternoon, everybody.
I'm Elgie Holstein.  I'm senior advisor to
Secretary Manetta.
I have been working behind the scenes on
the Northwest Hawaiian Islands issue for a number
of months, although the real work is actually being
done by lots and lots of other people.  But I take
every opportunity I can to take credit for their
work with the Secretary.
And then of course I saw that I was going
to have my big opportunity in the public hearing
sessions that we're having in the aftermath of the
President's announcement last week because I heard
we were going to have a whole series of public
hearings.
And I said to Roger Griffis, "Roger, this
is it.  I'm ready to go.  It's getting cold here in
Washington."
And he said, "We're absolutely going to
have you, Elgie, at one of the public hearings.  We
can't imagine doing it without you."
I said, "Terrific.  Sign me up."
And then he informed me that he had
signed me up for the one here in Washington, while
all the other ones are out in Hawaii.

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

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

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

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

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

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

So let me assure you that I'm not going to carry on here, because we want to hear from you.
So I'm going to take a seat. We have Lee Langstaff here with us who I want to introduce to you next who's our facilitator. And Lee, who's been helping us out for some time now, is going to help us continue this process.

Lee, thanks.

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

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

(No response)

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

Okay. Thank you, Kathy.

VOICE: Thank you.

MS. LANGSTAFF: So, welcome. As you know, this is a public hearing regarding Executive Order Number 13178, issued by President Clinton last week on Monday, December 4th, establishing the Northwestern Hawaiian Islands Coral Reef Ecosystem...
This hearing, as Mr. Holstein noted, is one of seven, the other six of which are being held in Hawaii at several different locations this week. These hearings are being conducted on behalf of the President, who has specifically requested comments on the conservation measures for the reserve and on his proposal to make the reserve preservation areas permanent.

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

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

Following this hearing the Department of Commerce will pull together all of the comments received and compile them with all of the others that have been received from other hearings, by e-mail, by fax, and by mail that are received by the
end of the designated comment period, which is January 8th of next year.

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

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

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

MS. LANGSTAFF: Great. Roger.

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

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

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

MS. LANGSTAFF: Okay. Thank you.
What I'd like to do now is to describe how we're going to proceed here this afternoon, before we open the floor for your comment.

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

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

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

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

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

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

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

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

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

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

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

Finally, I suspect that many of you have been to public meetings that were frustrating or counter productive where perhaps a few people dominated. We know that people come to these meetings with strong feelings sometimes. We know some of you are really concerned about and feel
strongly about many dimensions of this subject. So
we ask all of you to abide by the following
protocols and courtesy: remember that everybody's
views are welcome, no matter what they are, and no
one will be excluded and let's respect one another,
assuming that there will be differences of opinion,
they're inevitable, and especially when we talk
about sensitive environmental and cultural and
social issues.

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

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

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

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

MR. GRIFFIS: Great. Thank you, Lee.
Thank you all for coming. What we found useful in the public meetings that have happened so far -- this is the fourth of seven public meetings. They started Monday night, two of them Monday night in Hawaii. What we found was useful was just to give a very brief orientation. Many of you may be perhaps more skilled in the Executive Order than even some of us, having read it extensively. But we thought it was useful to give a brief overview, orient ourselves to it.

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

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

And it's important to realize that the
President's declaration applies a number of conservation measures within the entire reserve, within the entire blue area. And those measures, those conservation measures is what the President has asked for public comment on.

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

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

You should have a number of pieces of paper that were out on the front table there. They're probably the quickest quick reference guide to what are these conservation measures and what
additional measures apply within the preservation areas.

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

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

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

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

The additional protective measures that
apply within the Reserve preservation areas are such that -- and, again, I'll try to summarize here -- basically within the Reserve preservation areas all consumptive use of living marine and resources is prohibited, and then there are a couple exceptions.

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

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

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

Thank you.

MS. LANGSTAFF: Okay. Thank you, Roger.

Okay. I'd like to turn to our first commenter. And the first one of you who signed up
to speak is Judy Olmer.

Judy, do you want to come up?

MS. OLMER: Yes. Thanks.

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

And why don't you use the microphone right here.
STATEMENT OF MS. JUDY OLMER

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

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

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

The importance of this area, representing about 70 percent of the coral reefs of the United States, is underscored by the deterioration of many of the other coral reefs around the world. In a recent speech, Secretary of Commerce Manetta stated, "It is shocking that two thirds of the world's reefs may be dying and that 30 percent of the world's reefs are already gone."
He went on to note that in Florida some reefs have lost over 95 percent of their coral since 1975. Even under ideal conditions it would take more than a human lifetime for these reefs to recover.

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

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

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

And thank you for considering my views on
my important action. Thank you.

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

MS. LANGSTAFF: Thank you, Judy.

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

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

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

MS. LANGSTAFF: Thank you, Judy.

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

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MS. LANGSTAFF: Thank you, Judy.

Well we were being flexible based on how many people are here and who signed up to speak.

So if you think of something else and you want to add your name at the end of the list, we can do that. Thanks.

Okay. Cliff McCreedy.
STATEMENT OF MR. CLIFF MC CREEDY

MR. MC CREEDY: Good afternoon. My name's Cliff McCready. I'm president of Ocean Watch.

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

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

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

The Reserve protection areas we feel need
to be there, as proposed by the President, should not be scaled back. And we'll be making more specific comments in our written submissions.

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

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

Thank you very much.

MS. LANGSTAFF: Thank you, Cliff.

John Sibert. John, do you have your card?

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

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

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

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

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

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

The Western Pacific Council has been the steward of marine resources in the Northwest
Hawaiian Islands for nearly 25 years. A recent NOAA ecological survey of the Northwest Islands concludes that the area is in pristine condition, which demonstrates I think that current fishing in the Islands is not having an impact on the Northwest Hawaiian Islands ecosystem.

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

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

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

Abandoned and decomposing shore site facilities such as breakwaters and seawalls need to
be either properly removed or restored to a
condition that does not endanger monk seals.

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

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

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

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

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

The plan sets aside over 20 percent of
the Northwest Hawaiian Islands as "no take" marine
protected areas and consistent with the coral reef
The coral reef management plan has the support of fisherman active in our Northwest Hawaiian Islands and approved by the Western Pacific Regional Fishery Management Council this year. Inexplicably the plan, or perhaps explicity, the plan has languished at the NOAA headquarters for several months.

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

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

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

Thank you for your attention.

MS. LANGSTAFF: Thank you.

I have Jack Sobel next. Do you have your card?
MR. SOBEL: Yes. I do.
STATEMENT OF MR. JACK SOBEL

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

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

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

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

On the second point, in terms of things that we've been asked to comment on, we believe
that the coral reef preservation areas need to be expanded and strengthened. These areas constitute a relatively small area of the very large area in the coral reef reserve. They have been described by some as "no take" areas.

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

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

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

We believe that those coral preservation areas should be made permanent, that they should be made fully protected in the sense of being completely "no take." We believe that the current bottom fishing exemption that extends through much of the area within those coral reef preservation areas is especially problematic in particularly
that is used there, which allows for an undefined expansion of current bottom fishing effort, which I'll discuss in a minute, is particularly problematic.

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

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

In terms of some specific comments on those principles and conservation measures: with respect to commercial and recreational fishing we believe that the caps that are discussed in there should be firm caps. As I mentioned earlier, the language on bottom fishing is particularly problematic and, as we understand that language, it might allow for an increase of as much as 50 percent in terms of the current bottom fishing levels.
And I think what's most problematic is that the language is not clear. It talks about a one time reasonable increase. And a one time reasonable increase is disturbing to us, especially since in conservations as to what that means it's been suggested to us that that could lead to a fairly substantial increase.

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

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

We certainly believe that native Hawaiians should be given an opportunity to share in that resource but we believe that that can be accommodated within a cap on existing levels of fishing.
With respect to the commercial and recreational fishing conservation measures, we also believe that they should recognize that those activities may also be restricted in conjunction with sections 5, 8, and 10 of the Executive Order.

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

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

And that there is not a need to wait for IMO to act in terms of international regulations to address commercial fishing and commercial tourist operations and require VMS without or prior to
going through an elongated IMO process.

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

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

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

Fishing has had an impact on the area. It's one of the primary threats or impacts to the region. We believe that WESPAC has a role to play and the fisheries management council process has a role to play but that the oceans are not out there
exclusively for the purpose of fisheries. And that fisheries management is just one aspect of what we should be doing on the oceans.

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

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

MS. LANGSTAFF: Thank you.

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

(No response)

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

(No response)

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

Are there any clarification questions?

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

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

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

What section was it again?

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

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

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

MR. MC CREEDY: Yes.

MR. GRIFFIS: Thank you. So perhaps we
can give further clarification.

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

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

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

    The other part of that section, if I
remember right, speaks specifically to the Native
Hawaiian designated permits that have not been
used. And so the concern was that the cap should
be set with enough flexibility by the Secretary of
Commerce to incorporate the current users or the
current permit holders in this fishery. And, I know, it does get complex and that's why it was left to the Secretary of Commerce to work with the WESPAC to figure out what that cap would be.

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

MS. LANGSTAFF: Jack? Another question?

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

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

MR. GRIFFIS: Let me see if I can deal with those. This is not part of a rulemaking
process. That will come after, I believe -- I'll look to my colleagues here -- after we get whatever final decision from the President is made. Then there will be rulemaking activities by the Department to implement the final decisions, the final part of the Executive Order.

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

After that the Secretary of Commerce, unless there are further changes that change this, the Secretary of Commerce will have to do some rulemaking to implement this, whatever the final package is. So that's a different process down the road into the New Year.
Your other question about area: we do have some numbers. I don't have them at my fingertips. I know that as I alluded to the preservation areas, if you add up all the preservation areas it comes out to be about four percent of the entire reserve area. And I believe on the website, but maybe not, we have how much that is in square nautical miles or acres or that kind of thing.

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

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

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

(No response)

MS. LANGSTAFF: Okay. The next thing I
was going to do was to ask Roger to tell us what
the next steps were, but since he's just done that
maybe we don't need to do that again.

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

MR. SIBERT: John Sibert, again.
STATEMENT OF JOHN SIBERT

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

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

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

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

MS. LANGSTAFF: Thank you.

Anybody else want to make a comment before we close?

(No response)

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

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

(Laughter)

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

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

Thank you for coming.

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

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.

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WILLIAM J. MOFFITT
Official Court Reporter