Report to the Twenty-First Legislature
Regular Session of 2002
on

A Report on the Development of the
Northwestern Hawaiian Islands
Coral Reef Ecosystem Reserve Operations Plan
and Clarification of the State’s Role and Responsibilities

Prepared by

Department of Land and Natural Resources
State of Hawaii

in response to
Senate Concurrent Resolution 89
Regular Session of 2001

December 2001
INTERIM REPORT ON
SENATE CONCURRENT RESOLUTION NO. 89, 2001 Regular Session

Requesting a Report on the Development of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Operations Plan and Clarification of the State’s Role and Responsibilities

PURPOSE OF THIS REPORT
This report is submitted in compliance with Senate Concurrent Resolution No. (SCR) 89, adopted by the Twenty-First Legislature of the State of Hawai‘i, Regular Session 2001. The Resolution requests the Department of Land and Natural Resources (DLNR) to keep the Legislature apprised on the development of the Northwestern Hawaiian Islands (NWHI) Coral Reef Ecosystem Reserve (Reserve) Operations Plan and clarify the State’s role and any specific management responsibilities.

BACKGROUND
The NWHI Reserve was established by President Clinton on December 4, 2000, by Executive Order (EO) 13178/13196. The Reserve is adjacent to the seaward boundaries of State of Hawaii waters and extends approximately 1,200 nautical miles long and 100 miles wide. The purpose of the Reserve is to manage and facilitate coordination among federal and state agencies with management responsibilities for the lands, waters and native biota that are dependent on these resources including several threatened and endangered species. The EO called on the Secretary of Commerce, in consultation with the Secretary of the Interior and the Governor of Hawaii, to develop a Reserve Operations Plan to govern the management of the Reserve. The EO directed the Secretary of Commerce to appoint a 24-member Coral Reef Ecosystem Advisory Council, including one voting representative from the State of Hawaii as appointed by the Governor. Governor Cayetano appointed Mr. Timothy E. Johns to be his representative to the Advisory Council.

RESPONSE TO S.C.R. 89
Current Status:
When President Bush took office, one of the initial Executive Directives issued by the White House was a review of all EO issued by the Clinton Administration during his last year in office. EO 13178/13196, which created the NWHI Reserve was included in this review. To date the EO creating the Reserve is still under review by the Bush Administration. Concerns have arisen over some of the conservation measures outlined in the EO especially as they relate to managing fisheries resources in federal
waters and the limits to vessel discharges.

A preliminary draft of the Reserve Operations Plan was released in May 2001 to Federal and State agencies with management responsibilities for the waters of the NWHI. A copy of the draft plan was also circulated among the NWHI Reserve Advisory Council. Comments from the Advisory Council and the Federal and State agencies were compiled and sent back to Washington, D.C. with the preliminary draft plan. Until such time as the review by the Bush Administration is completed, a final draft Reserve Operations Plan will not be released for further public comment or agency review.

While the timing is unknown on when the decision on the Reserve will be forthcoming from the Bush Administration, the Department of Commerce will move forward to hold scoping meetings on the potential for the Reserve to become a National Marine Sanctuary. These meetings will likely take place in February, 2002. It is hoped that the review of the EO by the Bush Administration is completed by this point as the Reserve Operations Plan will form the basis for the development of a Sanctuary Management Plan.

State Initiatives:
DLNR is moving forward with the designation of all State waters in the NWHI as a Fisheries Management Area. Public hearings on this designation and management framework are set to begin in early January, 2002. DLNR has also been in negotiation with the Department of Commerce to sign a Memorandum of Agreement to provide resources to the State to assist DLNR in management of State waters and to support Commerce during the Sanctuary designation process. This Memorandum was recently signed by both parities.
SENATE CONCURRENT RESOLUTION

REQUESTING A REPORT ON THE DEVELOPMENT OF THE NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF ECOSYSTEM RESERVE OPERATIONS PLAN AND CLARIFICATION OF THE STATE'S ROLE AND RESPONSIBILITIES.

WHEREAS, the world's coral reefs -- the rain forests of the sea -- are in serious decline and these important and sensitive areas of biodiversity warrant special protection; and

WHEREAS, while United States waters contain approximately three percent of the world's coral reefs, seventy percent of U.S. coral reefs are in the Northwestern Hawaiian Islands, and these 3.5 million acres are unquestionably some of the healthiest and most extensive coral reefs in the United States; and

WHEREAS, on May 26, 2000, President Clinton directed the Secretaries of Commerce and the Interior, working cooperatively with the State of Hawaii and consulting with the Western Pacific Fishery Management Council, to develop recommendations for a new, coordinated management regime to increase protection of the coral reef ecosystem of the Northwestern Hawaiian Islands and provide for sustainable use of the area; and

WHEREAS, as a result of these recommendations, on December 4, 2000, Executive Order 13178 established the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve), including submerged lands and waters of the Northwestern Hawaiian Islands, extending approximately 1,200 nautical miles long and 100 nautical miles wide; and

WHEREAS, the Reserve is adjacent to and seaward of the seaward boundaries of the State of Hawaii and the Midway Atoll National Wildlife Refuge, and overlays the Hawaiian Islands National Wildlife Refuge to the extent that it extends beyond the seaward boundaries of the State of Hawaii; and
WHEREAS, the Reserve is to be managed to facilitate coordination among federal and state agencies and other entities, as appropriate; and

WHEREAS, the Secretary of Commerce (Secretary), in consultation with the Secretary of the Interior and the Governor of Hawaii, is to develop a Reserve Operations Plan to govern the management of the Reserve; and

WHEREAS, after considering input from the Secretary of the Interior and Governor of the State of Hawaii, the Secretary is to establish a twenty-four member Coral Reef Ecosystem Reserve Council, including one representative from the State of Hawaii as appointed by the Governor, to provide advice and recommendations on the Reserve Operations Plan and designation and management of any sanctuary; and

WHEREAS, the Secretary must provide a progress report on the implementation of the Executive Order to the Chair of the Council on Environmental Quality within one year from the date of the Executive Order; and

WHEREAS, the U.S. Fish and Wildlife Service currently manages eight islands (not including Midway and Kure Atolls) as the Hawaiian Islands National Wildlife Refuge; and

WHEREAS, Midway Atoll is an unincorporated U.S. possession and is not part of the State of Hawaii, and the Midway Atoll National Wildlife Refuge is managed by Midway Phoenix Corporation as an ecotourism business, under a long-term contract with the Fish and Wildlife Service; and

WHEREAS, Kure Atoll is under the management of the State Department of Land and Natural Resources as a state wildlife refuge; and

WHEREAS, with the exception of some tourism on Midway Atoll, there is limited human activity currently taking place in the Reserve; and

WHEREAS, only one fishery (bottomfish) is currently active in federal waters of the Reserve, two additional Fishery Management Plans for crustaceans (lobster) and precious corals, are not currently active, and there is limited recreational fishing in the area; and
WHEREAS, the National Marine Fisheries Service regulates fishing from the outer boundary of State waters out to two hundred nautical miles from shore, based on fishery management plans recommended by the Western Pacific Regional Fishery Management Council; and

WHEREAS, federal and state agencies conduct activities, such as research, monitoring, and enforcement, to fulfill their management responsibilities for federal and state resources, including the Midway Atoll and Hawaiian Island National Wildlife Refuges, the state wildlife refuge on Kure, and to help protect and recover protected, threatened, and endangered species; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, the House of Representatives concurring, that the Department of Land and Natural Resources (DLNR) is requested to keep the Legislature apprised of the development of the Reserve Operations Plan; and

BE IT FURTHER RESOLVED that DLNR, with the assistance of the Department of Business, Economic Development, and Tourism, is requested to clarify the role of the State in any specific management responsibilities, and in any potential tourism, recreational, and commercial activities within the Reserve; and

BE IT FURTHER RESOLVED that DLNR shall submit a report of its findings to the Legislature no later than twenty days prior to the convening of the Regular Session of 2002; and

BE IT FURTHER RESOLVED that a certified copy of this Concurrent Resolution be transmitted to the Governor, the Chairman of the Board of Land and Natural Resources and the Director of Business, Economic Development, and Tourism.

OFFERED BY: [Signature]