



MARINE MAMMAL COMMISSION

10 May 2010

Ms. Laura Thielen, Chairperson
Hawaii Board of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Ms. Thielen:

Thank you for participating in the Marine Mammal Commission's 2–4 December 2009 annual meeting. As you know, a major purpose for holding our meeting in Hawaii was to review cooperative efforts by the National Marine Fisheries Service and its partners to recover the Hawaiian monk seal. The Commission continues to be impressed by the state of Hawaii's commitment and contributions toward recovery of the species. The Commission also appreciated your frank assessment of the state's budget crisis and understands that this limits the state's ability to contribute. If the Marine Mammal Commission can help in any way as you work through this situation, please do not hesitate to contact me.

At the Commission's meeting, you noted that the Department of Land and Natural Resources will need to rely more heavily on partnerships with the federal government to manage this crisis. The Commission understands that, consistent with section 6 of the Endangered Species Act, your department has prepared a multi-year grant request for submission to the National Marine Fisheries Service to implement conservation work on marine endangered species, including Hawaiian monk seals. The Marine Mammal Commission encourages the Department of Land and Natural Resources to work closely with the National Marine Fisheries Service to ensure that its section 6 grant application addresses key needs identified in the Hawaiian monk seal recovery plan and emphasizes those activities that the state is especially well qualified to pursue, such as community outreach and enforcement. The Commission is writing to the National Marine Fisheries Service to support your application and is recommending that the Service work closely with your staff to ensure the application's prompt review and approval.

At the Commission's meeting, you identified three central state objectives: education and outreach, enforcement, and strengthening the Department's approach to conservation of monk seals and other marine species. The Commission concurs with these vital objectives. You also noted that the review process for the Hawaiian Islands Humpback Whale National Marine Sanctuary's management plan provides an opportunity to add monk seals to the list of resources under its scope and to generate a broader appreciation of the benefits that marine life, including monk seals, brings to Hawaii's residents and visitors. Again, the Commission agrees and has written to the Office of National Marine Sanctuaries several times to support the addition of monk seals to the sanctuary's scope.

You also noted that the Department's co-managers for the two largest protected areas off Hawaii had recently taken other positions, vacating state co-manager positions for both the humpback whale sanctuary and the Papahānaumokuākea Marine National Monument. These positions are currently within the Department's Division of Aquatic Resources but are supported

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with financial assistance from federal agencies. You indicated that the state may restructure the division to raise the prominence of marine protected areas by establishing several additional positions to address co-management and marine protected area responsibilities. Spatial management and marine protected areas are garnering more attention as marine conservation measures, and restructuring the division to better address such approaches could have great merit as the state develops future management strategies for marine resources.

Both of the co-management positions, however, are demanding tasks. The Papahānaumokuākea Monument is one of largest marine protected areas in the world with a complex administrative and regulatory framework, while the humpback whale sanctuary is entering what likely will be a controversial review process that could result in a much expanded management scope. Whatever new structure the state selects, the associated workload will require two separate positions at pay scales appropriate for attracting and retaining qualified people. The Marine Mammal Commission encourages the Department of Land and Natural Resources to explore reorganization options with existing and potential co-management partners and then to move as quickly as possible to fill the two vacant co-manager positions with qualified individuals.

Finally, with regard to law enforcement, you noted that the Department has improved compliance with certain laws by moving away from criminal penalties—which require trials and evidentiary burdens—toward increased use of civil penalties and fines. Accordingly, your Department is discussing this approach with officials in the National Oceanic and Atmospheric Administration’s Office of Law Enforcement. The Marine Mammal Commission believes this is a sensible idea that has been applied elsewhere (e.g., the state of Florida working with the U.S. Fish and Wildlife Service to protect Florida manatees) and could address Hawaiian monk seal conservation concerns. The Marine Mammal Commission therefore encourages the Department of Land and Natural Resources to develop this approach as it applies to protection of Hawaiian monk seals. The Commission’s General Counsel, Michael L. Gosliner, would be pleased to meet with your law enforcement staff to discuss this approach for addressing violations of the Marine Mammal Protection Act.

Again, thank you for participating in the Commission’s meeting. I hope these comments are helpful and that you will let us know if we can assist you in any way as you promote conservation of the Hawaiian monk seal.

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director