

## COLUMN

# Peter Apo: Can We Talk About Papahānaumokuākea?

The decision whether to expand the marine national monument should only be made with public input.

ABOUT 8 HOURS AGO • By Peter Apo 

Share 7

My [previous column](#) raised concerns over the request to President Obama to expand the Papahānaumokuākea Marine National Monument in the Northwestern Hawaiian Islands.

I start this column by clarifying for readers my perspective regarding marine conservation and the Northwestern Hawaiian Islands.

I do join most people of Hawaii in generally supporting the establishment of the existing Papahānaumokuākea National Marine Monument, which was signed into law by President George W. Bush.

Courtesy: Claire Fackler/NOAA National Marine Sanctuaries



*A snorkeler counts fish at Kure Atoll in Papahānaumokuākea Marine National Monument in the Northwestern Hawaiian Islands.*


In the hours I've spent researching the monument-expansion request from every possible angle, I have been frustrated that the search for answers only led to more questions.

The one thing that became clear is that given the complexity of all the moving parts of the Papahānaumokuākea issue, I would have to leave any deep dive for another day and spare you the confusion.

### **It's Not Just About Going Fishing**

No doubt the impact on commercial fishing, particularly tuna, is a subject of very heated debate and should be a particularly important, if not vital concern, for Hawaii as a matter of food security and economic impact.






But any proposal to expand the existing boundaries of the monument to four times its existing area, making it twice the size of Texas, is about more than fishing.

In my opinion, the most important question, to which I've dedicated this column, swirls around the legal instrument used to establish the existing marine national monument. That legal instrument may be on the verge of being invoked a second time to effect a sweeping expansion of the monument's boundaries.

## **The Antiquities Act: Public Policy Making Without the Public**

Advocates of expanding the monument propose more federal control over the Northwestern Hawaiian Islands by dramatically increasing its boundaries. They urge President Obama to invoke the Antiquities Act of 1906. That act authorizes the president to bypass Congress, the state of Hawaii and the people of Hawaii.



The Antiquities Act originally was intended to fast track protection of Native American archaeological sites, historic structures and artifacts, which were subject to looting at the time, by declaring relatively small areas of land as national monuments, bringing them under federal protection.

Applying the act in a sweeping re-designation of hundreds of thousands of square miles of Hawaii's oceans, far beyond the existing monument boundaries, is a major public policy shift with huge implications.



*Theodore Roosevelt used the Antiquities Act to declare the Grand Canyon a national monument in 1908. It became a national park in 1919.*

The act does not require any public vetting. I believe invoking the act, in this case, would be a transgression of the public's right to the kind of formal process that normally would be required of any legislative proposal as sweeping as this.

It's interesting how leaders in the state of Alaska, in their wisdom, got Congress to pass the Alaska National Interest Lands Conservation Act of 1980. That act required congressional approval for all national monument proclamations in Alaska greater than 5,000 acres. Alaska was preceded by Wyoming, in 1950, with a law that required congressional approval for all national monument proclamations in Wyoming.

It seems that in both cases, the proponents for shielding their states from the Antiquities Act wanted to prevent federal officials from taking away decisions they felt should be made by the citizens of their states.

## **A Call for a Public Discussion Process**



The proposed expansion screams for vetting through a public disclosure and discussion process that yields the following outcomes:

- Maximizes political transparency and legitimate opportunities for public participation.
- Spells out with specificity what the expansion would achieve that is not achieved by the existing monument and clearly demonstrates the need.
- Spells out precisely what is protected or negatively affected by the expansion that is not already addressed by existing federal and state laws, not the least of which is the Magnuson-Stevens Act regulating commercial fishing.
- Provides a budget proposal that lays out the cost to the state and federal governments, with a special focus on enforcement and what I assume will be a dramatic increase in cost to manage the monument, as articulated in the Papahānaumokuākea Marine National Monument Natural Resources Science Plan.
- Discloses any non-marine conservation objectives, such as military activity, which are exempt from the permitting process.
- Offers an unbiased analysis of the economic impact of banning all commercial activity and prohibiting access to abundant natural resources even for a public purpose such as renewable natural energy.

My hope is that, no matter what one's perspective might be, we can join in a request to our state and federal authorities to stage a series of public hearings and let the sun shine on Papahānaumokuākea.

**Follow Civil Beat on [Facebook](#) and [Twitter](#). You can also sign up for Civil Beat's free [daily newsletter](#).**

### About the Author



COLUMNIST

**Peter Apo** 🌺

A former legislator, Peter Apo is a trustee of the Office of Hawaiian Affairs and the president of the Peter Apo Company LLC, a cultural tourism consulting company to the visitor industry. He has also been the arts and culture director for Honolulu, the city's director of Waikiki

Development and served as special assistant on Hawaiian affairs to Gov. Ben Cayetano. His opinions are his own and do not necessarily reflect the views of OHA or other organizations he is involved in.

**Use the [RSS feed](#) to subscribe to Peter Apo's posts today**

