

MARINE MAMMAL COMMISSION
4340 EAST-WEST HIGHWAY, ROOM 905
BETHESDA, MD 20814

17 February 2005

Ms. Kitty Simonds
Executive Director
Western Pacific Fisheries Management Council
1164 Bishop Street, Suite 1400
Honolulu, Hawaii 96813

Dear Ms. Simonds:

The following responds to the Western Pacific Fisheries Management Council's request for comments on alternatives to consider as it drafts proposed fishery-related regulations for the Northwestern Hawaiian Islands. The proposed regulations are intended to be included in a National Marine Sanctuary Program proposal to convert the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve to a national marine sanctuary. In developing the following comments and recommendations, the Marine Mammal Commission, in consultation with its Committee of Scientific Advisors, has reviewed an untitled document on the Council's Web site analyzing seven possible regulatory approaches.

Section 304(a)(5) of the National Marine Sanctuaries Act provides regional fisheries councils an opportunity to draft proposed fishing regulations for national marine sanctuaries and directs that, in doing so, the draft regulations must be consistent with (1) the policies and provisions of the Sanctuaries Act and (2) sanctuary goals and objectives as identified by the National Marine Sanctuaries Program (NMSP). A statement of sanctuary goals and objectives was provided to the Council by the NMSP in mid-September. That document notes that the NMSP staff met with Council officials several times to determine how best to format its advice to the Council and that the Council requested that the NMSP provide an analysis of the range of fishing alternatives, including the alternative that is considered to be most consistent with the goals and objectives of the sanctuary. Accordingly, in addition to specific sanctuary goals and objectives, the NMSP statement described six alternatives, (including one recommended by the Council), in addition to a status quo alternative.

The analyses of alternatives on the Council's Web site do not follow the advice and recommendations set forth in the NMSP document. Most of the alternatives analyzed by the Council differ substantially from those identified by the NMSP. For example, the Council identified three new alternatives that allow various levels of lobster and coral fishing despite guidance, including the NMSP's preferred alternative, that indicate those fisheries are inconsistent with the stated goals and objectives of the sanctuary. In addition, the Council's analysis fails to consider the alternative recommended by the NWHI Coral Reef Ecosystem Reserve Advisory Council that was included in the NMSP list of alternatives to be considered. The Council's analysis also considers a status quo alternative that fails to recognize existing requirements of the Executive Orders establishing the reserve. It also notes that, if a sanctuary is not designated and the requirements of the Executive Orders remain in effect, provisions of existing fishery management plans would

somehow continue to have a role in governing the management of fishery resources within the reserve. There is no explanation as to what fishery management plan provisions would apply. In our view, these departures from guidance provided by the NMSP are inappropriate, and therefore the Marine Mammal Commission recommends that the Council analyze each of the alternatives identified in the NMSP guidance document and explain why it believes the alternatives it has identified are more appropriate to consider.

With regard to the development of proposed regulations for the sanctuary, the Marine Mammal Commission recommends the following:

Prohibit all commercial crustacean fishing

Crustacean fisheries in the NWHI have exhibited classic signs of overfishing and stock depletion. Catch levels in 1999, when the fishery had to be closed, were just 10 percent of levels taken in the mid-1980s. Lobsters and other species taken as bycatch in the fishery are known to be prey for monk seals, and it is uncertain to what extent the depletion of the lobster stock has contributed to the decline of the monk seal population at French Frigate Shoals or to the species' lack of recovery at other locations. This clearly reflects a case in which precautionary management requires that the fishery remain closed until unambiguous data indicate otherwise. In addition, sanctuary regulations must be consistent with provisions in the Executive Orders that established the reserve, and these provisions limited commercial catches to the level that existed in the year prior to reserve designation. As there were no lobster landings that year, any permitted catch would not be consistent with the Executive Orders, which direct that any sanctuary provisions supplement and complement measures in the Executive Orders.

Prohibit bottomfish fishing

The size and catch per unit of effort of bottomfish caught in the NWHI have declined significantly since the late 1970s, with large, older fish now far less abundant. Large fish are major predators in coral reef ecosystems and may serve important functions in structuring those ecosystems. Also, large fish provide a disproportionately large contribution to annual larval production and therefore to recruitment. It is unclear to what extent past fishing has altered the abundance and age structure of bottomfish stocks. Thus, until better information is available on the status of individual species and bank-specific populations that comprise the bottomfish fishery, this fishery should be closed consistent with sanctuary's precautionary management principles and its objective of restoring and preserving important ecological processes (i.e., a natural balance in predator-prey relationships).

Prohibit all commercial coral fishing

Corals provide the underlying structure for the regional ecosystem. As such, we believe direct harvests of these species for commercial purposes are inconsistent with the goals and objectives of the sanctuary. In addition, there was no commercial coral fishing in the NWHI in the year prior to designation of the reserve. Thus, the development of any coral fisheries is inconsistent with Executive Order provisions establishing the reserve.

Prohibit commercial longline fishing for pelagic species

Longline fishing for pelagic species has been prohibited within waters now designated as the reserve since 1992 because of the threat it poses to monk seals and other protected species. This ban is clearly consistent with the goals and objectives for the reserve and proposed sanctuary and should be incorporated into sanctuary regulations.

Limit commercial trolling, pole and line, and handline fishing for pelagic species to levels that occurred in the year prior to reserve designation and require reporting of all catch to the sanctuary administrators

This fishery is carried out principally by commercial fishing vessels as they transit reserve waters. Limiting fishing to levels that existed in the year prior to reserve designation should not pose a significant threat to living resources or the regional ecosystem. Subject to a reporting requirement, we believe it would be consistent with the Executive Orders and the identified goals and objectives for the sanctuary.

Allow recreational fishing, including spearfishing, subject to catch limits, reporting, time-area restrictions, and, as appropriate, catch and release or other provisions

The levels of recreational fishing that existed in the year prior to reserve designation should not pose a significant threat to living resources or the regional ecosystem if it is properly regulated. The Commission believes that, subject to reporting and other management restrictions, recreational fishing at these levels would be consistent with the Executive Orders and the identified goals and objectives for the sanctuary.

Prohibit fishing for aquaria and live fish trade, algae, sponges, and other invertebrates

Information on the biology and status of these coral reef associated species is absent or very limited. Where removals of these types of organisms have occurred in other areas, including the main Hawaiian Islands, species abundances have often been greatly reduced. The risk of such depletions is particularly great at small, isolated reefs, such as those in the NWHI. Under the precautionary management principles established for the reserve and included in the goals and objectives identified for the sanctuary, such fisheries would be inappropriate.

Allow sustenance fishing subject to catch limits, reporting requirements, time-area restrictions, and gear restrictions

Almost all vessels traveling to the NWHI engage in various types of fishing for purposes of direct consumption by crew and passengers during the voyage. Considering the low numbers of vessels transiting sanctuary waters, we believe limited harvests for this purpose would not threaten populations of living resources or be inconsistent with identified sanctuary goals and objectives. To prevent possible increases in the future that could become a problem, however, we believe such fishing should be subject to appropriate reporting restrictions, catch limits, time-area restrictions, and gear restrictions as may be deemed appropriate.

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Allow Native subsistence fishing subject to catch reporting requirements

Non-commercial fishing by Native Hawaiians for subsistence, cultural, and religious purposes is consistent with the Executive Orders and identified goals and objectives. We believe it should be allowed to continue, subject to requirements for reporting the number, sizes, and species caught.

Prohibit all fisheries not otherwise authorized

In the past, new fisheries, such as the bottom longline fishery for sharks, have arisen unexpectedly, causing problems for resource managers. To avoid such problems in the future, all fishing that is not expressly authorized by sanctuary regulations should be prohibited. Because such fisheries were not in effect in the year prior to reserve designation, prohibiting them also is necessary for the sanctuary regulations to be consistent with the Executive Orders establishing the reserve and the bounds of sanctuary management.

If you or your staff have any questions about these comments or recommendations, please call.

Sincerely,

A handwritten signature in black ink that reads "David Cottingham". The signature is fluid and cursive, with a long horizontal stroke at the end.

David Cottingham
Executive Director

cc Mr. Timothy Johns
VADM Conrad C. Lautenbacher, Jr., Ph. D.
Mr. William Robinson
Richard W. Spinrad, Ph. D
Ms. Aulani Wilhelm