



**Western
Pacific
Regional
Fishery
Management
Council**

May 25, 2006

Mr. Lane Wick, Editor Emeritus
Mr. Peter Serafin, Editor
Hawaii's Island Journal
PO Box 227
Captain Cook, HI 96704
editor@hawaiiislandjournal.com

Re: Response to March 25, 2006, Article Concerning the Western Pacific Regional Fishery Management Council

Dear Messrs. Wick and Serafin:

The purpose of this letter is to respond to a recent article published by your newspaper concerning the role and position of the Western Pacific Regional Fishery Management Council ("the Council") in the proposed designation of the Northwestern Hawaiian Islands ("NWHI") as a National Marine Sanctuary under the National Marine Sanctuaries Act ("NMSA").

The March 25, 2006, article entitled "Fish Fight" contains a number of false and misleading statements regarding the Council and its role in the ongoing sanctuary designation process. The Council believes this article, and similar articles published in related publications, distort the truth, lack any factual basis, and engage in inappropriate personal attacks on public employees in an attempt to justify personal agendas. In view of your purported guidelines to foster truthful, fair, and accurate reporting of environmental issues,¹ the Council hopes that any future reporting on these matters by your publication will reflect a more professional analysis of the relevant issues.

Below we attempt to address some of the more egregious statements contained in the March 25, 2006, article.² We encourage you to carefully review and investigate the misrepresentations contained in the article, and to publish an appropriate correction that complies with your stated mission statement.

¹ See <http://www.hawaiiislandjournal.com/about.html> (describing Hawaii Island Journal's mission statement).

² We note that no member of the Council was interviewed prior to publication of this article, and that perhaps some of the errors contained in the article might have been corrected if a sincere effort had been made to schedule and conduct an interview with Council staff, Council Members, or the Executive Director.

I. The Council's Responsibilities under the Magnuson-Stevens Act

The Council, authorized and organized under the Magnuson-Stevens Act ("MSA")³ is the policy-making organization for the management of fisheries in the exclusive economic zone around the Territory of American Samoa, Territory of Guam, State of Hawaii, the Commonwealth of the Northern Mariana Islands and U.S. Pacific island possessions - an area of nearly 1.5 million square miles.

The Council is one of eight regional councils in the United States, which were established under the MSA. The Western Pacific Council has 13 voting and 3 non-voting members. Half of the members are appointed by the U.S. Secretary of Commerce to represent fishing and related community interests in the region. Remaining members are designated state, territorial and federal officials with fishery management responsibilities.

The principal responsibility of the Council under the MSA is to protect United States fishery resources while maintaining opportunities for domestic fishing at sustainable levels of effort and yield. Section 301(a) of the MSA contains 10 national conservation standards the Council must follow when developing fishery management programs for U.S. fishery resources, including achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry, providing for the sustained participation of communities in fisheries, and to the extent practicable, minimizing adverse economic impacts on communities.⁴ To accomplish these objectives, the Council monitors fisheries within its region and prepares and modifies fishery management plans as needed, through a process involving extensive public review and comment under applicable federal laws. Resulting fishery regulations are then enforced jointly by the National Marine Fisheries Service ("NMFS"), the U.S. Coast Guard, and deputized state and territorial agents.

II. Council Responsibilities under the NMSA

A. Relationship of NMSA to MSA

Section 304(a)(5) of the NMSA provides that when designating a sanctuary, the Secretary shall provide the appropriate Regional Council with the opportunity to submit draft fishing regulations for the proposed sanctuary, as the Council may deem necessary to implement the proposed designation.⁵ In preparing draft regulations, the Council shall use the guidance contained in the national standards of Section 301(a) of the MSA.⁶ The Secretary shall accept and issue proposed regulations developed by the Council unless the Secretary finds that the

³ 16 U.S.C. §§ 1801 *et seq.*

⁴ *See* 16 U.S.C. § 1851(a).

⁵ *See* 16 U.S.C. § 1434(a)(5).

⁶ *Id.*

proposed regulations fail to fulfill the purposes and policies of the NMSA, and the goals and objectives of the proposed Sanctuary.⁷

B. Proposed Regulations for the NWHI

On April 14, 2005 the Council issued its recommended fishing regulations for the proposed NWHI Sanctuary.⁸ The Council's recommendation, developed through a lengthy public process, contained four broad recommendations, including (1) a recommendation that fisheries for crustaceans, precious corals, and coral reef species be subject to a moratorium until development of an ecosystem-based fishery management plan; (2) a recommendation to permit subsistence fishing by Native Hawaiian communities during the development of an ecosystem-based fishery management plan; (3) a recommendation that NOAA's fishery monitoring continue to include collection of fishery-dependent data and fishery independent information; and (4) a recommendation that NOAA and other agencies conduct marine research to support management in the proposed sanctuary area.

In issuing its recommendations, the Council explicitly considered the consistency of its proposed fishery regulations with the purposes and policies of the NMSA, and the proposed goals and objectives of the proposed sanctuary. Importantly, the Council concluded that its recommendation constituted a science-based fishery management regime that was supported by more than 30 years of research and 20 years of active management in the proposed sanctuary area. The Council concluded that its proposed regime, including research and monitoring elements, would protect, conserve, and where appropriate, restore the proposed sanctuary, contributing to a comprehensive, ecosystem-based management approach that will foster greater understanding of the area for years to come. These conclusions are well-documented in the Council's April 14, 2005, report accompanying its recommendations.

On October 24, 2005, NOAA issued its findings concerning the Council's proposed fishery management regime.⁹ In NOAA's October 24, 2005, findings and related analysis, the Agency stated that it had disapproved, in its entirety, the Council's April 14, 2005, recommendations.¹⁰ In rejecting the Council's proposed regulatory program, NOAA stated that it intends to continue working with the Council and other parties during the sanctuary designation process to develop appropriate fishery management programs for the proposed

⁷ Id.

⁸ A copy of the document entitled "Recommendation of the Western Pacific Regional Fishery Management Council (WPFMC) Regarding the Management of Fisheries within the Proposed Northwestern Hawaiian Islands National Marine Sanctuary," including supporting documentation, is available online at <http://www.wpcouncil.org>.

⁹ A copy of NOAA's findings is available online at <http://hawaiireef.noaa.gov/designation/fishing2004.html>.

¹⁰ The Council disagrees with the findings contained in NOAA's October 24, 2005, determination, and believes such findings (1) are inconsistent with the original purposes and objectives of the Reserve; (2) misinterpret the Council's proposed recommendations; (3) ignore procedural and substantive requirements, such as compliance with the MSA, the NMSA, and the National Environmental Policy Act; and (4) fail to articulate a rational basis to reject the Council's proposed regulations.

sanctuary, and that such a process will permit the Council to continue developing proposed fishery regulations pursuant to the provisions of the MSA.

C. Basis for Proposed Council Regulations in the NWHI

As detailed in a number of published scientific reports, including the Council's April 14, 2005, report concerning its proposed fishery management, the best available scientific information does not support closing areas within the NWHI to all fishing.¹¹ Presently, the only fisheries occurring in the NWHI are handlining and trolling for bottomfish and pelagic species. As indicated by federal scientific publications, both fisheries result in virtually no impact on protected species, habitat or the ecosystem.^{12, 13, 14, 15} Such scientific research has been peer-reviewed, unlike many "studies" referenced in the March 25, 2006, article that manipulate or misinterpret data from other published research to achieve a desired result.

Currently, half of the local bottomfish landed in Hawaii comes from the NWHI. If the NWHI is completely closed to commercial fishing, Hawaii will have to import more fish from other countries with fisheries that are less regulated and monitored than our local fisheries. In other words, from a global perspective, closing fishing within the proposed NWHI Sanctuary will likely be more harmful to the global environment than allowing a highly-regulated, limited fishery as proposed by the Council. Furthermore, U.S. fishermen assist in protecting our nation's marine borders by reporting encroachments into the NWHI by foreign fishing vessels. Without the assistance of U.S. fishermen, our marine resources would be more susceptible to encroachments by foreign fishing.

The March 25, 2006, article states that the lobster fishery in the NWHI is overfished due to excessive fishing pressure. No scientific evidence exists indicating that the lobster fishery is overfished. According to a variety of scientific reports,^{16, 17, 18} the lobster stock decline in the

¹¹ The Council observes that the March 25, 2006, article fails to cite any scientific information developed by the Council or NMFS concerning fishery management proposals. Such omissions underscore the article's bias, and lack of professional research which would seem to directly conflict with the stated mission of this publication.

¹² National Marine Fisheries Service. 2004. "Biological opinion on Western Pacific Pelagic Fisheries." Issued February 23, 2004. Proposed Regulatory Amendments to the Fisheries Management Plan for the Pelagic Fisheries of the Western Pacific Region.

¹³ National Oceanic and Atmospheric Administration (NOAA). 2004. Proposed Northwestern Hawaiian Islands National Marine Sanctuary Program Advice and Recommendations on Development of Draft Fishing Regulations Under the National Marine Sanctuaries Act Section 304(a)(5). September 20, 2004. Pp. C-40 and C-42

¹⁴ Kelly, C. and W. Ikehara. The Impacts of Bottomfishing on Raita and West St. Rogation Banks in the Northwestern Hawaiian Islands. *Atoll Research Bulletin* 543: In press.

¹⁵ NMFS (National Marine Fisheries Service). 2002. National Marine Fisheries Service Endangered Species Act - Section 7 Consultation [for Management of the Bottomfish and Seamount Groundfish Fisheries in the Western Pacific Region According to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region]. Sustainable Fisheries Division, Southwest Region, Pacific Islands Area Office.

¹⁶ Polovina, J.J. et al. 1994. Physical and biological consequences of a climate event in the central North Pacific. *Fisheries Oceanography* 3 (1), 15-21.

NWHI was a result of a regime shift in the North Pacific in the late 1980s. This phenomenon was evident at Laysan Island in particular where the fishery did not operate. Those who manage lobster fisheries also know that lobster population abundance is cyclic, with population levels periodically rising and then falling. NOAA Fisheries did not produce a harvest guideline for the fishery in 2000 due to uncertainties in the lobster population model that was used to calculate the number of lobsters that could be caught. The Council in 2001 temporarily closed the fishery until uncertainties in the model were resolved. NOAA Fisheries has not completed an environmental impact statement and has not issued a quota for the fishery since that time, and the fishery has not been reopened.¹⁹

Contrary to assertions contained in the March 25, 2006, article, no scientific evidence indicates that the lobster fishery is the cause of the decline in the Hawaiian monk seal population. The monk seal population has declined at French Frigate Shoals, but the reason for this has never been identified. Other island and atolls have stable or increasing monk seal populations. Problems at French Frigate Shoals that impact monk seals may include competition with other large predators (sharks and jacks), lost haul out areas due to shifting sand, shark predation of pups, and aggressive male monk seals that attack females and pups (two such aggressive males were relocated to Johnston Atoll in 1999). Other potential risks to this species include marine debris entanglement and possible toxic pollutants (residue from the creation and use of Tern Island for military purposes).

III. Council Management Actions to Date Concerning the Fishery

The March 25, 2006, article incorrectly states that the Council “proposes to expand the existing bottomfish industry in the NWHI, reopen the lobster fishery, and establish new fisheries for precious coral and reef fish.” The article otherwise suggests that the Council has taken a less-than-conservative approach to managing fisheries in this area, and in other areas under its jurisdiction. These statements are simply not true, as evidenced by the following:

- The Council reduced the bottomfish fishery from about 30 to 40 vessels to its current level of 17 permits and 9 active vessels by making the fishery a limited entry fishery and restricting vessel size to 60 feet or less. Prior to these management measures, larger vessels from Alaska would travel to the NWHI to bottomfish. More recently, the Council has voted to reduce the number of permits to 14, to impose large no-fishing areas west of 174 deg West longitude (i.e., around Kure and Midway Atolls and Pearl and Hermes Reef) as well as

¹⁷ Polovina, J.J. 2005. Climate variation, regime shifts, and implications for sustainable fisheries. *Bulletin of Marine Science*, 76(2):233-244.

¹⁸ Baker J, J Polovina and E Howell, "Apparent Link Between Survival of Juvenile Hawaiian Monk Seals and Ocean Productivity," presented at the "Symposium on Climate Variability and Ecosystem Impacts on the North Pacific: A Basin-Scale Synthesis," April 2006, Honolulu.

¹⁹ The fishery was a bank-specific quota fishery. The quota was based on a 10 percent risk of overfishing, which is a very conservative figure.

around French Frigate Shoals, and to cap the harvest of NWHI bottomfish at 381,500 pounds, which is equivalent to 85 percent maximum sustainable yield.

- In 1990 the Council established a Protected Species Zone from 3 to 50 miles around the entire NWHI. Longline vessels were prohibited from this zone to eliminate their interaction with Hawaiian monk seals. Longline fisherman in fact proposed the longline prohibition around the NWHI. The area of this Protected Species Zone in late 2000 became the NWHI Coral Reef Ecosystem Reserve by President Clinton's executive orders, and it is this same area that is now being considered as the NWHI National Marine Sanctuary.
- The Council voted to continue the ban on longline fishing in the NWHI and to limit non-longline pelagic fishing (e.g., handline and trolling) to three permitted vessels and an annual take of 180,000 pounds total by both pelagic and bottomfish vessels. The Council proposes to permit recreational fishing on a case-by-case basis, with permit and reporting requirements.
- The Council voted to prohibit all other fishing in the NWHI, including lobster, precious coral and coral reef fish. The pearl fishery referenced in the March 25, 2006, article in fact occurs within State waters outside the jurisdiction of the Council. The fishery in question also occurred at a time when there were no fishing regulations in the NWHI.

These facts illustrate that contrary to allegations contained in the March 25, 2006, article, the Council has diligently worked to evaluate the status of fisheries under its jurisdiction, and to proactively address management issues in collaboration with fishery participants. These facts, which were omitted from the article, further demonstrate the significant lack of credible research or analysis upon which the article was based.

Presently, the Council supports seasonal fishery closures in the main Hawaiian Islands during spawning periods, consistent with available scientific research. However, the Council does not support the imposition of large, permanent closures as such closures have no basis in credible science, and are presently impossible to monitor or enforce. Aside from the lack of any compelling scientific information suggesting the need for these closures, the Council recognizes the significant economic impact to the State of Hawaii that could occur if the NWHI was closed to commercial fishing. It would be equivalent to banning fishing from 0 to 200 miles from shore along the West Coast of the United States, from Seattle to San Diego. In view of the potentially significant economic impacts to the public and the Hawaii tourism industry, the Council believes, consistent with the MSA and NMSA, that a more tailored, scientifically based fishery management regime is warranted to preserve the multiple uses of this area.

IV. Impact of the Pelagic Longline Fishery on Sea Turtle Species

The article states that Hawaii longline fishing boats, operating under NOAA Fisheries guidelines, "so badly decimated the leatherbacks and other turtle species that the courts stepped in, placing huge swathes of the Pacific off-limits to longliners in rulings that the industry has repeatedly challenged." This statement is false, and misrepresents court orders and litigation that have been widely publicized, and that are a matter of public record. A cursory review of such

litigation proceedings and relevant court orders would show that the longline fishery was closed as a result of procedural failures on the part of NOAA Fisheries and that the fishery was subsequently reopened in a manner that that NOAA Fisheries determined “does not jeopardize” listed sea turtles or other listed species.

As outlined in a myriad of scientific reports, such as an environmental impact statement and a NOAA Fisheries biological opinion, Hawaii longline fisheries account for only 2 percent of the pelagic tuna fisheries in the Pacific, and Hawaii fisheries have no measurable impact on stocks of sea turtles that migrate through Hawaiian waters. This conclusion is supported by world-renowned sea turtle experts. As a precautionary measure and to help bolster population recovery, the Council is presently conducting conservation programs at nesting beaches and coastal foraging grounds in Japan, Papua New Guinea, Indonesia and Mexico as part of its fishery management program. These programs are resulting in significant benefits to turtle species by increasing hatchling production and raising awareness among communities to reduce local harvest pressure. As outlined in the consultation documents, the Council believes that nesting beach restoration efforts will offset the take of sea turtles in longline fisheries several times over. Much of this nesting beach conservation work would not have occurred without the Council’s efforts. Further, we also have been instrumental in rehabilitating the turtle research data programs at the South Pacific Regional Environment Programme (SPREP), headquartered in Samoa, and the Southeast Asian Fisheries Development Center (SEAFDEC) in Malaysia.

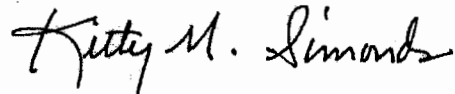
Aside from the Council’s efforts to conserve nesting beaches, Hawaii’s fishermen, the Council, and environmental groups have worked collaboratively to develop and test fishing methods to reduce bycatch in the longline fishery and to share this knowledge with other fisheries in the Pacific. We have reduced the incidental take of seabirds in the longline fishery by over 95 percent. Fishery experiments have identified that large circle hooks in combination with specific fish bait may significantly reduce sea turtle interaction rates. Our shallow-set swordfish longline fishery utilizes these methods and has achieved a 90 percent reduction in interaction rates. Additionally, proper handling techniques and de-hooking practices are being employed to maximize survivability of released turtles. The Council, Hawaii fishermen and NOAA Fisheries have co-hosted three International Fishers Forums to share this information with other countries. Moreover, the Council has supported and funded programs in locations such as Central and South America where longline fishermen have been asked to trial circle hooks in preference to traditional ‘J’ hooks, while scientists from the NMFS Honolulu Laboratory have conducted similar research and circle hook trials with longline fisheries at other locations around the world.

The Council views its efforts, and the efforts of Hawaii’s commercial fishermen, as an example of how threatened and endangered species can be conserved and restored through internationally collaborative work among industry, government and environmental groups. The March 25, 2006, article not only fails to acknowledge these efforts, but undermines these collaborative programs that have resulted in important environmental benefits that have served as models for other states and countries.

V. Summary

In closing, I encourage you and other members of your profession to adhere to professional and ethical guidelines when reporting on issues of importance to Hawaii's community. As public servants, we owe the public the truth, and we owe it to ourselves to strive for the highest professional standards possible. The March 25, 2006, article falls far short of these standards and guidelines, and warrants correction.

Sincerely,

A handwritten signature in cursive script that reads "Kitty M. Simonds". The signature is written in dark ink and is positioned above the printed name and title.

Kitty M. Simonds
Executive Director