

**Western
Pacific
Regional
Fishery
Management
Council**

April 12, 2010

Assistant Regional
Administrator, Protected Resources
Division, NMFS, Pacific Islands Regional Office
1601 Kapiolani Blvd. Suite 1110
Honolulu, HI 96814

Re: Notice of 90-Day Finding on a Petition to List 83 Species of Corals as Threatened or Endangered Under the Endangered Species Act (ESA)

To Whom It May Concern,

Thank you for the opportunity to provide comments on the NMFS findings on a petition from the Center of Biological Diversity (CBD) to list 83 species of corals as threatened or endangered under the ESA. The Western Pacific Regional Fishery Management Council notes that there already are management regulations for all of these corals under the Council's Fishery Ecosystem Plans (previously the Coral Reef Ecosystem Fishery Management Plan) that prohibits the harvest of coral and live rock, as well as a prohibition on destructive gears. These regulations provide ample protection within the US Exclusive Economic Zone of the Western Pacific Region.

Much of the analysis of the petition focuses on Indo-Pacific coral reefs. Between the Indian and Pacific oceans there are over 50,000 islands that lie within the tropics that are capable of supporting coral reefs, but very few of which have been comprehensively inventoried for coral reef species. Moreover, the petition does not provide an analysis of coral reefs of the US Flag Pacific Islands, where, as noted above, the harvest of live rock coral reef is prohibited under the Council's Coral Reef Fisheries Ecosystem Plan.

There is harvest of coral and live-rock for the aquarium trade in the independent nations of the Pacific Islands, but this practice is well documented by regional organizations such as the Secretariat of the Pacific Communities and continues to be sustainable. Moreover, an ESA listing for these corals would put these sustainable harvesting activities at risk, since the world's largest market for the aquarium trade is the USA. ESA listing would prohibit imports of these corals by the US thus diminishing economic opportunities in countries which already have a limited economic base.

The designation of no-take Marine National Monuments in Palmyra Atoll & Kingman Reef, Howland & Baker Islands, Jarvis Island, Johnson Atoll, Wake Island, , American Samoa,

CNMI, and Hawaii have created substantial marine reserves in which no coral or live rock extractive activities are allowed. This has guaranteed the permanent protection for coral reefs across a great arc of the Pacific Ocean, from Micronesia to Polynesia.

An ESA listing is more than a paper exercise and brings with it the requirements for the formation of a recovery team, the development of a recovery plan with mandatory periodic reviews, the development of recovery criteria and the need to develop Biological Opinions (BiOps) in the event of takes and interactions. Given the widespread use of coral reefs for fishing by the indigenous people of the US Flag Pacific Islands, there would likely need to be multiple Biological Opinions for each location where these coral are found and establishment of jeopardy thresholds and prescribed takes for a multitude of coral reef fisheries including net fishing, hook-and-line fishing, trap fishing and spear-fishing. Given the current level of fishery enforcement activities in this region it is unlikely that any BiOp reasonable and prudent alternatives could be enforced. Further, many of the indigenous peoples of the region continue to exercise their traditional tenure rights over reefs adjacent to their villages and islands. It is likely that any ESA listing would come into conflict with these rights, and possibly lead to litigation based on human rights infringement of indigenous peoples of the US Pacific Islands

The petition bases much of its conclusions on declines of coral reefs to a desk top study in the online journal PLoS One (2009, August 2007 Issue 8 Regional Decline of Coral Cover in the Indo-Pacific: Timing, Extent, and Sub-Regional Comparisons by John F. Bruno and Elizabeth R. Selig). These authors looked at surveys conducted on coral reefs in depths between 1-15 m, with a mean of 6.2 m, while coral reefs extend as deep as 50 m, meaning that there is no way in this study to ascertain if the declines observed in shallow water reefs were reflected across the entire Indo-Pacific reef biome. The authors report a decline in coral cover in the Indo-Pacific Region over a wide range of reefs, both remote and those impacted by anthropogenic activities. Such a decline may be indicative that corals in the shallowest waters may be responding to a long term inter-decadal regime shift; switching from a regime favorable to coral reefs to one which may be less favorable. If so, then an ESA listing will do nothing to recover corals, which may recover overtime in response to whatever forcing factor or combination thereof becomes more favorable to coral reefs.

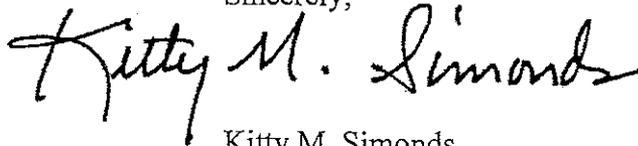
The main thrust of the CBD petition in terms of threats to coral reefs (30+ pages) is devoted to potential impacts to coral reefs based on the climate scenarios in the UN Intergovernmental Panel on Climate (IPCC) Change Reports. These include sea-level rise, sea temperature elevation and marine acidification. It is worth noting here that the IPCC reports have been the subject of much controversy over the sloppy and inaccurate science they contain. NOAA is presumably aware that in mid-March the UN Secretary General Ban Ki Moon was forced to intervene and appoint a watchdog for the IPCC due to its poor science and outlandish alarmist claims. This includes the premise of ocean acidification, which is based primarily on laboratory experiments, and not on in-situ observations of coral reefs. While increased in sea water may have impacts on the calcium carbonate deposition in corals, this may be counterbalanced by the beneficial effects on higher CO₂ levels on photosynthesis by the symbiotic zooxanthellae in corals. Moreover, if the predicted demise of corals through acidification is real, then an ESA listing would be a pointless exercise, since no conservation

action would save reefs save the reversal of the CO₂ trend, which is beyond the scope of this statute.

Protecting species of corals in the Pacific is commendable; however, we are at a loss as to the reasons for the inclusion of most of the species listed in the petition, which are found throughout much of the Indo-Pacific faunal continuum. An analysis of the 75 Indo-Pacific corals included in the petition reveals that 66 of these or 88% are widespread in the Indo-Pacific region, with only 9 having truly limited ranges (two species *Montipora lobulata* and *Psamocorra stellata* are widely distributed but have limited occurrences across a wide range of the Indo-Pacific). Four species (*Montipora dilata*, *Montipora Flabellata*, *Montipora patula* and *Porites pukoensis*) are endemic to Hawaii, although only *P. pukoensis* is rare and limited to Molokai, while the three *Montipora* species are found throughout the Hawaii Archipelago. *Pavona diffluens* is relatively limited in its distribution and is found in the Mariana Archipelago, which now has a National Marine Monument in the northern most islands, which will afford a great degree of protection to this and other coral species.

Given the arguments presented here and the disastrous impacts ESA listings could have on indigenous fishers in the Pacific Islands, the Council requests that NMFS deny the listings sought in this petition.

Sincerely,

A handwritten signature in black ink that reads "Kitty M. Simonds". The signature is written in a cursive, flowing style.

Kitty M. Simonds
Executive Director