

MARINE MAMMAL COMMISSION
4340 EAST-WEST HIGHWAY, ROOM 905
BETHESDA, MD 20814-4447

23 May 2002

Mr. Robert P. Smith
Reserve Coordinator
Northwestern Hawaiian Islands
Coral Reef Ecosystem Reserve
National Ocean Service
6700 Kalaniana'ole Highway, Rm 215
Honolulu, HI 96852

Dear Mr. Smith:

In December 2000, President Clinton signed Executive Order 13178 designating the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve in federal waters around the Northwestern Hawaiian Islands. The Executive Order directed the Secretary of Commerce to initiate a process to convert the Reserve to a National Marine Sanctuary. In response to this directive, a scoping process was recently begun to solicit comments on key issues to be addressed in converting the Reserve to a National Marine Sanctuary. Towards this end, the Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, offers the following comments and recommendations.

Executive Order 13178 directs that a precautionary management approach be followed in implementing the Reserve. Specifically, section 4(b) states that "[t]he Reserve shall be managed using available science and applying a precautionary approach with resource protection favored when there is a lack of information regarding any activity, to the extent not contrary to law." The order also established a number of Reserve Preservation areas in which no fishing is to occur and a cap on any further expansion of commercial fisheries operating in the area. In converting the Reserve to a National Marine Sanctuary, section 5(e) of the Executive Order directs the Secretary of Commerce to "supplement or complement" provisions of the Reserve. This statement provides clear guidance that the resource protections provided by a Northwestern Hawaiian Islands National Marine Sanctuary should be at least as complete and stringent as those now provided by the Reserve. Consistent with these directives, the Marine Mammal Commission recommends that the National Ocean Service include the referenced precautionary management principle, as well as the other management provisions set forth in the Executive

Mr. Robert P. Smith
23 May 2002
Page 2

Order, in any action to designate the Reserve as a National Marine Sanctuary. By the same token, the Marine Mammal Commission recommends that fishery management plans developed as part of the Sanctuary proposal include all of the fishery management measures set forth in the Executive Order.

In our view, including these measures is particularly important for assuring resource protection. The Northwestern Hawaiian Islands occur at the northern limit of the range for coral reefs. They also consist of small, isolated habitats. As a result, opportunities for recruiting species from surrounding areas are very limited, and living resources in the area are therefore especially vulnerable to human impacts and management errors. In the past, the Western Pacific Regional Fishery Management Council and the National Marine Fisheries Service have not applied precautionary management principles, as now required in the Executive Order, to the management of fisheries in the Northwestern Hawaiian Islands. In our view, this likely contributed to the decline of certain species of monk seal prey, including lobsters and perhaps octopuses, and thereby indirectly to the decline of monk seals.

Between 1991 and 1999, the Commission wrote more than a dozen letters to the Council and the Service recommending that management of the Northwestern Hawaiian Islands lobster fishery include precautionary measures to protect known monk seal prey species, especially those eaten by the declining monk seal colony at French Frigate Shoals. Although there is strong evidence that the French Frigate Shoals population has declined because of limited prey availability, and monk seals are known to eat lobsters, octopuses, and other species caught in lobster traps, the Council and the Service rejected the Commission's precautionary management recommendations on grounds that information was insufficient to determine how important those species are to monk seals. Under the adopted fishery management measures, which allowed up to 80 percent of the region's lobster stock to be harvested, lobster stocks have declined precipitously to overfished levels. This has contributed to the depletion of available monk seal prey and led to the closure of the lobster fishery on two separate occasions. The bycatch of other species taken in the fishery also may have affected the abundance of octopuses, a species known to be important to monk seals; however, no research has been done to assess the effects of the fishery on this species of bycatch.

Under the precautionary management approach mandated by the Executive Order, measures that favor resource protection must be adopted when there is a lack of information on potentially significant effects of an activity. As indicated above, this has not been the approach of past management actions concerning the region's fisheries. The precautionary

Mr. Robert P. Smith
23 May 2002
Page 3

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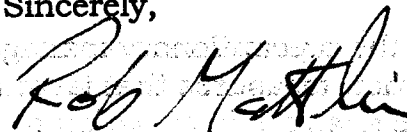
management approach established for the Reserve therefore fills an important gap in management practices and is especially important to carry forward as a guiding principle for management of the area as a National Marine Sanctuary.

As additional matters to be addressed during the process of considering National Marine Sanctuary status for the Reserve, the Marine Mammal Commission recommends that:

- (1) agreements be reached to include, within the Sanctuary boundary, waters that are now between the Reserve boundary and land in the Northwestern Hawaiian Islands that are under the jurisdiction of the State of Hawaii and the U.S. Fish and Wildlife Service;
- (2) the Sanctuary include provisions and resources to help meet logistical needs (e.g., transportation and maintenance of field stations) of researchers and natural resource managers with other federal and state agencies working in the Northwestern Hawaiian Islands;
- (3) the Sanctuary develop and implement a research plan for assessing and monitoring marine resources within sanctuary boundaries;
- (4) a cooperative interagency agreement be established with the National Marine Fisheries Service, the Fish and Wildlife Service, the State of Hawaii, and the Coast Guard for managing and protecting all marine resources dependent on waters and lands throughout the Northwestern Hawaiian Islands; and
- (5) cooperative management measures are developed to ensure that the numbers, distribution, and activities of researchers and visitors to the Northwestern Hawaiian Islands do not exceed levels that could adversely affect populations of monk seals or other protected wildlife species.

I hope these comments are helpful. If you or your staff have questions, please call.

Sincerely,



Robert H. Mattlin
Executive Director