



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION IX**  
75 Hawthorne Street  
San Francisco, CA 94105

May 30, 2006

William L. Robinson  
Pacific Islands Regional Administrator  
National Marine Fisheries Service  
1601 Kapiolani Boulevard, Suite 1110  
Honolulu, HI 96814

**Subject:** Draft Supplemental Environmental Impact Statement (DSEIS) for the Bottomfish and Seamount Fisheries of the Western Pacific Region, Measures to End Bottomfish Overfishing in the Hawaii Archipelago (CEQ # 20060126)

Dear Mr. Robinson:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

The project is an amendment to the Bottomfish and Seamount Groundfish Fishery Management Plan (FMP) to address overfishing in the bottomfish complex in the Hawaiian Archipelago. The DSEIS identifies a primarily and secondarily preferred alternative, the former of which is dependent on the State of Hawaii passing parallel regulations for seasonal closures. We understand that at this time, the State has not agreed to seasonal closures. Therefore the preferred alternative is Alternative 2a: Area Closure of Penguin and Middle Banks.

Based on our review, we have rated the DSEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed “Summary of Rating Definitions”). Because of a lack of data, the DSEIS contains substantial uncertainties regarding the consequences of project alternatives. National Marine Fisheries Service (NMFS) and the Western Pacific Regional Fishery Management Council (Council) acknowledge that the lack of good data can hinder fishery management decisions, and this is the basis for our concern. To address the uncertainties, we recommend an adaptive management approach be pursued and a more conservative mortality reduction target be established.

We commend NMFS and the Council for including a data collection component for recreational fisheries in all action alternatives, which will provide a major missing data stream. We also understand that a bottomfish stock assessment is nearing completion, which will provide additional information.

EPA appreciates the opportunity to review this DSEIS. When the Final SEIS is released for public review, please send one copy to the address above (mail code: CED-2). If you have

any questions, please contact me at (415) 972-3988 or Karen Vitulano, the lead reviewer for this project, at 415-947-4178 or [vitulano.karen@epa.gov](mailto:vitulano.karen@epa.gov).

Sincerely,

/s/

Duane James, Manager  
Environmental Review Office  
Communities and Ecosystems Division

Enclosure: EPA's Detailed Comments  
Summary of EPA Rating Definitions

cc: Kitty M. Simonds, Executive Director, Western Pacific Regional Fishery  
Management Council

### **Addressing Uncertainties**

The NEPA regulations state that agencies should consider the degree to which the effects of an action are highly uncertain in determining significance of impacts (40 CFR 1508.27(b)(5)). The DSEIS contains substantial uncertainties and acknowledges the difficulty in assessing ramifications of the alternatives in a data-poor environment (p. 139). One major contributor to this data-poor environment is the lack of reporting by recreational fishers. EPA commends NMFS and the Council for including a data-collection and registration component for recreational fishers in all action alternatives. As this program begins to generate data, changes and refinements to the strategy to address overfishing can occur.

We also understand that the State of Hawaii is currently refining the number and locations of its Bottomfish Restricted Areas (BFRA's) and has voiced its commitment to increase enforcement of these areas in the future. Since this process is occurring concurrently, the results of these changes on target species and on the fishing community are unknown and could not be assessed for this document.

Decision-making based on this document and the current data-poor environment should include an adaptive management approach to address these and other uncertainties. The adaptive management process should be documented in the Final Environmental Impact Statement (FEIS).

#### *Recommendation:*

Adopt an adaptive management program to address uncertainties, including the impacts from recreational fishers on bottomfish overfishing, the uncertainties regarding shifting of fishers to open areas including the Northwest Hawaiian Islands (NWHI) as a result of area closures, and the impacts on mortality reduction and on fishing communities from changes and enforcement of the State's BFRAs. Include the key elements of the adaptive management program in the FEIS. Key elements should include monitoring objectives and timelines, information needs, needed financial, technical, and human resources, the process for evaluating monitoring results including indicators and criteria, the process for altering management decisions, the data management process, and the process for communicating results.

### **Alternatives Analysis and Mortality Reduction Goal**

The DSEIS states that most of the overfishing taking place in the Hawaiian Archipelago is occurring in the Main Hawaiian Islands (MHI) and reducing fishing mortality in the MHI is the most effective means to end overfishing in the archipelago. A 15% minimum reduction in fishing is needed in this zone to address the overfishing condition. The DSEIS states that all the action alternatives evaluated would achieve this reduction (with 4 alternatives requiring the cooperation of the State of Hawaii).

The document acknowledges that precise estimates in reduction in fish mortality are difficult to achieve (p. 148), but qualitative information regarding the assumptions and level of uncertainty in estimating these reductions could be presented, especially since uncertainty appears to be greater for some alternatives. The DSEIS also states that there is a significant but unknown recreational catch of bottomfish (p. vii) believed to be between 25% and 70% of total bottomfish catch (p. 54), with the Council estimating it as about equal to the commercial catch in the MHI (p. 64). It is not clear how this catch will affect the 15% reduction goal.

*Recommendation:*

The FEIS should clearly describe how each action alternative will meet the necessary 15% reduction and indicate the assumptions and levels of uncertainty for each alternative. Disclose areas of technical disagreement, if applicable. Based on information known, clarify how the fishing mortality rate and reduction target could be affected by the significant recreational catch. The NMFS and the Council should consider a more conservative reduction goal, perhaps a 20% reduction, as a buffer to account for significant uncertainties, especially since the DSEIS states that a *minimum* of 15% is needed to address overfishing.

## **Seasonal Closure**

We understand that the State does not support a seasonal closure and that this alternative is no longer being considered. A seasonal summer closure should remain an option as an add-on to the proposed area closure, however, due to its low impact on fishing communities. A seasonal closure is preferred by fishers since this is the lowest period of bottomfish landings, there are alternative fisheries available, and there is no interference with the high holiday demand period in December. Summer closure also provides benefits by prohibiting fishing during the peak spawning period, reducing fishing mortality of spawning bottomfish (p. 155).

*Recommendation:*

NMFS and the Council should consider seasonal closure in Federal waters as an add-on measure should adaptive management monitoring results indicate additional controls are needed to reduce fish mortality. Efforts to coordinate a complete closure with the State should continue, should future data indicate that conditions require this action.

## **Endangered Hawaiian Monk Seal**

The endangered Hawaiian Monk Seal is found primarily throughout the NWHI, but the 2005 Hawaiian Monk Seal Recovery Plan notes that since the mid-1990's, births in the MHI have increased and it is possible that the seal may be recolonizing the MHI, which may have been part of its historic range. MHI habitat appears favorable for continued increases of this endangered species (p. 115). This trend, along with potential shifts in fishing to the NWHI from area closures in the MHI, increases potential impacts to the seal. The 2002 Biological Opinion concluded that the bottomfish fishery is not likely to jeopardize the continued existence of the

Hawaiian Monk Seal but noted that monk seals have been found with hooks similar to the type used in the bottomfish fishery. Since interactions between the bottomfish fishery and the Hawaiian Monk Seal could increase as a result of shifting from closures, mitigation measures should be included in the FEIS to protect this species.

*Recommendation:*

Include mitigation measures for the Hawaiian Monk Seals in the MHI. These should include mandatory attendance at protected species workshops for all vessels, commercial and recreational, that are registered under the new registration program. Like at NWHI, fishers should also commit to fish retention onboard to prevent Hawaiian Monk Seals from following their vessels, and the allowance of NMFS observers on bottomfish vessels, as needed.