

**Center for Food Safety • Conservation Trust • Environmental Defense •  
Friends of Blue Hill Bay • Institute for Agriculture and Trade Policy •  
Institute for Fisheries Resources • Mangrove Action Project •  
The Ocean Conservancy • Pacific Coast Federation of Fishermen's  
Associations • Penobscot Bay Watch • Public Citizen  
Save the Sound, Inc. • Slow Seas Project**

December 23, 2003

William T. Hogarth, Ph.D.  
Assistant Administrator for Fisheries  
NOAA Fisheries  
14555 Silver Spring Metro Center 3  
1315 East-West Highway  
Silver Spring, MD 20910-3282

**Sent via Fax: 301-713-2258**

**Re: Legislative Environmental Impact Statement  
for Aquaculture Legislation**

Dear Dr. Hogarth:

The undersigned groups, on behalf of their many members and constituents, are concerned about the aquaculture legislation that NOAA has drafted and intends to propose to Congress next session. This legislation, as you know, would create – for the first time – a detailed system for permitting aquaculture in federal waters in the Exclusive Economic Zone. Due to the precedent-setting nature of this action, along with the potentially significant environmental impacts caused by offshore aquaculture, we are writing to formally request that your agency prepare a Legislative Environmental Impact Statement (LEIS) to accompany this legislation as required by the law.

Under the National Environmental Policy Act (NEPA), all recommendations “on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment” must include a detailed statement on the environmental impact of the proposed action. 42 U.S.C. §§ 4332(C). Legislation includes “a bill or legislative proposal to Congress developed by or with the significant cooperation and support of Federal agency.” 40 C.F.R. § 1508.17. “Only the agency which has the primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.” *Id.* Given that NOAA has primarily drafted the offshore legislation, NOAA Fisheries should be the agency responsible for preparing a LEIS.

As you are aware, aquaculture can significantly affect the quality of the human environment. Offshore fish farms will potentially discharge large quantities of

uneaten fish feed, fish feces and other fish wastes, and farm chemicals into ocean waters. Net cages used for offshore production of finfish are vulnerable to the escape of farmed fish, which may interbreed with and alter the genetic makeup of local fish populations.

The NEPA regulations provide that a LEIS is “a detailed statement required by law to be included in a recommendation or report on a legislative proposal to Congress.” Id. § 1506.8(a). As mandated by NEPA, public comment must be part of this process. Id. § 1506.8(c). In order to provide a complete and accurate environmental impact statement that will be used for substantive public and Congressional debate, the LEIS process should be started immediately. Before submitting proposed offshore legislation, NOAA should note that NEPA requires that the LEIS must be submitted to Congress within 30 days of transmitting the legislative proposal and in time for Congressional hearings and deliberations. 40 C.F.R. § 1506.8(a).

The National Environmental Policy Act has two overarching goals. First, it seeks to have a decision-maker who is informed about the environmental impacts of the decision. Here, it is essential that the agency and Congress fully understand the environmental impacts of opening up a new type of aquaculture under the auspices of one federal agency in federal waters. Second, NEPA seeks to have an informed public. This can be accomplished here by having full public notice and comment on the LEIS. These comments must then be forwarded, along with NOAA Fisheries’ responses, to the Congressional committees with jurisdiction over the legislation.

We welcome the opportunity to discuss this issue with you further. Thank you for your cooperation and we look forward to providing comments to the LEIS.

Sincerely,

Ellen Athas  
The Ocean Conservancy

Tracie Letterman  
Center for Food Safety

W.F. “Zeke” Grader  
Pacific Coast Federation of  
Resources  
Fishermen’s Associations

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cc:    T. Keeney  
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