



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
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IN REPLY REFER TO:  
AES/HC

MAR 13 2002

Memorandum

To: Director, Office of Environmental Policy and Compliance  
Department of the Interior, Washington, D.C.

From: Regional Director, Region 1  
Portland, Oregon *Bill Shale*

Subject: Review of the Draft Environmental Impact Statement (DEIS) for the Fisheries Management Plan (FMP) for the U.S. West Coast Fisheries for Highly Migratory Species (ER 02/0109)  
RESPONSE: Team Leader, Natural Resources Management (Terry Martin)

In response to your February 7, 2002, memorandum, the U.S. Fish and Wildlife Service offers the following comments on the subject document. Please refer any questions to Julie Concannon, Regional Environmental Specialist, at (503) 231-2068.

Attachment

Ms. Valerie L. Chambers  
Chief, Domestic Fisheries Division  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Silver Spring, MD 20910

Ms. Chambers:

In reviewing the fisheries impacts of this draft EIS, the Department of the Interior (Department) notes the pelagic longline fishery has the greatest potential for significant incidental catch and mortality of migratory seabirds. Information from other longline fisheries, and specifically the Hawaii based pelagic longline fisheries, has documented the vulnerability of seabirds and especially albatross to this type of gear.

#### *International Migratory Bird Treaty Act*

Observer data for the Highly Migratory Species (HMS) drift gillnet fisheries indicates that seabird mortality is rare in this fishery as it currently operates. However, it is unknown what the consequences will be for seabirds if proposed alternatives to remove the restrictions on mesh size in the DEIS are adopted. It has been well documented for several other fisheries that gillnets can pose a serious threat to marine birds.

The interactions between seabirds and coastal purse seine fisheries and hook and line fisheries are poorly documented. We request a monitoring section be provided for in the final EIS which helps to determine how these fisheries should be monitored to determine conservation measures necessary to protect marine birds.

#### *Pelagic Longline Fishery*

The Department supports the proposed alternative to "prohibit the use of longline gear in the U.S. Exclusive Economic Zone [EEZ] off the west coast." Initiation of any longline fisheries within the EEZ is likely to increase the take of albatross, especially Black-footed Albatross (*Phoebastria nigripes*), and we recommend against all alternatives, which propose new longline fisheries within the EEZ. The proposed action adopts an initial set of conservation measures, which are consistent with the Hawaii based longline fisheries. Given that there is little data on rates of mortality and seabird interactions specific to the west coast longline fishery, this seems a prudent initial course of action. We recommend the final EIS provide a plan for data collection to accurately assess levels of take, specific to this fishery, and research to develop and evaluate protective measures which will reduce seabird mortality to zero.

#### *Drift Gillnet*

We recommend against Alternative 2 which removes restrictions on the mesh size. Catch rates of seabirds are well documented for the west coast HMS drift gillnet fishery. Observer data for the

drift gillnet fishery for swordfish and shark indicates that interactions with seabirds are frequent and few seabirds are killed in this fishery as it currently operates. Two alternatives are proposed for legal drift gillnet gear: Alternative 1 specifies a minimum stretched mesh size of 14 inches, and Alternative 2 does not specify any restrictions on mesh size. Alternative 1 is consistent with current regulations. The use of smaller mesh nets allowed in Alternative 2 is relatively new and the consequences for seabirds are unknown, and therefore not recommended.

### Coastal Purse Seine

The extent of seabird interactions with the coastal purse seine fishery is unknown. We recommend the final EIS provide a plan for data collection to determine if seabird mortality exists in this fishery and if it does, we recommend the development of conservation measures to reduce this take to zero.

### Hook and Line

Seabird interactions in the HMS recreational fisheries have not been monitored, but anecdotal accounts (reported in the DEIS) indicate that seabirds do become hooked while chasing baited hooks. "Most" are reportedly de-hooked and released alive. Pelicans (*Pelecanus occidentalis*), gulls (*Larus* spp.), and cormorants (*Phalacrocorax* spp.) are the species most frequently involved. Albatross are also known to be caught in the albacore troll fishery but the frequency is unknown. We recommend the continued development of gear and fishing techniques that reduce these interactions to zero, and the development of outreach materials that can be provided to fishers illustrating the methods for proper handling and release of captured birds, to promote their survival.

### Endangered Species Act

We are concerned that the DEIS does not address the potential effects of the proposed actions upon U.S. Fish and Wildlife Service (Service) listed species. We recommend the National Marine Fisheries Service (NMFS) initiate informal consultation with the Service to obtain a list of listed/proposed species or designated/proposed critical habitats in the action area for the final EIS. Once a list of endangered/threatened/proposed species or designated/proposed critical habitat is provided to your agency from the Service you can determine if certain species would be adversely affected by the proposed action in a biological assessment.

Some listed species known to occur within and adjacent to the EEZ include (but are not restricted to) the threatened marbled murrelet (*Brachyramphus marmoratus marmoratus*), threatened southern sea otter (*Enhydra lutris nereis*), endangered short-tailed albatross (*Phoebastria immutabilis*), threatened bald eagle (*Haliaeetus leucocephalus*), endangered California least tern (*Sterna antillarum (=albifrons) browni*), threatened western snowy plover (*Charadrius alexandrinus nivosus*), and endangered brown pelican (*Pelecanus occidentalis*). A comprehensive list of listed/proposed species and designated/proposed critical habitats within the action area can be obtained from the Service to initiate the informal section 7 process.

SPECIFIC COMMENTS

Pg. 6 - 9: 6.1.3. Interactions and the Migratory Bird Treaty Act - Species of Concern Paragraph 1, Sentence 3: We request you replace the existing sentence with "The estimated number of BFAL worldwide is approximately 290,000 birds, of which 58,000 pairs (116,000 birds) bred in 2001/2002 (USFWS data, 2002).

Paragraph 1, Sentence 5: We request you replace the estimated number of LAAL individuals "est. 2,400,000 individuals" with "est. 2,200,000 individuals" (USFWS data, 2002). Please add the following sentence: "Numbers of breeding LAAL have declined over the last 5 years in the 2 largest colonies of this species. (USFWS data, 2002).

Paragraph 1, Sentence 8: The DEIS states that "the birds begin returning to the Hawaiian Island chain after August. Please replace "after August" with "in October".

Pg. 8 - 13. Legal Gear and Gear Restrictions - Commercial Gear - Drift Gillnet: Two options are considered for this definition: 1. minimum stretched net mesh size of 14 inches, and 2. no minimum mesh size. We are concerned there is no discussion of the environmental consequences of these two options in 9.2.3.1. Given this lack of analysis, we recommend selection of Option 2: no restrictions on mesh size. Over 10 years of observer data indicate that seabird mortality associated with the current gear type is very low. Rates of seabird mortality associated with smaller mesh gillnets are unknown/not presented. If the unrestricted mesh size option is selected, then we recommend that the new fishery be closely monitored to ensure that the level of interactions with seabirds does not increase.

Pg. 8 - 29: 8.5.5. Pelagic Longline Fishery Management Measures: We support the proposal to prohibit the use of longline gear in the U.S. EEZ off the west coast. We are strongly opposed to Alternatives 2, 3, and 4, which would initiate longline fisheries or experimental longline fisheries inside the EEZ. Expansion of the longline fishery into this area would certainly increase the number of Black-footed Albatross killed. We support the proposal to apply all of the seabird conservation and management measures applied to western Pacific longline vessels to control sea turtle and seabird interactions, to west coast-based longline vessels, as is outlined in the preferred alternative. We also recommend the Council document the support research and development of additional and/or alternative measures that increase the protection of seabirds in the areas fished by the west coast-based longline fleet in the final EIS. Finally, we support the proposal to monitor this fishery. An observer program (20% coverage would match the effort in the Hawaiian longline fishery) could document the levels of mortality and assist in the evaluation of protective measures.

Pg. 8 - 30: 8.6.2 Research and Data Needed for Management - Information Needs by Fishery - Pelagic Longline: We recommend adding item "d." to the final EIS. Evaluate effectiveness of the conservation measures adopted from the Hawaiian longline fisheries in the area fished by the west coast longline fishery and develop and test new measures in an effort to reduce seabird incidental take to zero.