

February 29, 2016
Ms. Dorothy M. Lowman, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

RE: Agenda Item I.3 – Future Council Meeting Agenda and Workload Planning

Dear Chair Lowman and members of the Council,
After reviewing the Preliminary Year-at-a-Glance Summary under this Agenda Item, and the Workload Considerations on page 5 of the HMSMT Report under Agenda Item F.3, and after attending an information sharing meeting at PIER, I wish to retract my previous public comment that asks the Council to begin the process of authorizing a SS-Longline fishery outside the EEZ at it’s June 2016 meeting. Instead, I ask the Council to please consider the following changes to the Preliminary Year-at-a-Glance Summary:

	<u>April 9-14, 2016</u> (Vancouver)	<u>June 23-28, 2016</u> (Tacoma)	<u>September 15-20, 2016</u> (Boise)	<u>November 16-21, 2016</u> (Garden Grove)	<u>March 7-14, 2017</u> (Vancouver)	
HMS		NMFS Report International Issues Report on Ongoing EFPs Prelim EFP Review Scope Biennial Mgmt Measure Changes, SDC, & Ref. Pts. Federal HMS Permit PPA	International Issues Biennial Mgmt Measures ROA Federal HMS Permit FPA	NMFS Report Biennial Mgmt Measures FPA	NMFS Report International Issues Report on Ongoing EFPs	
				→	Amendment ROA: Authorizing SS-Longline Fishery Outside EEZ	
					→	Amendment ROA: Authorizing Deep-Set Buoy Gear
			Swordfish Mgmt & Monitoring Plan		Swordfish Mgmt & Monitoring Plan	

Federal HMS Permit PPA-

This February 2016, the Turtle Island Restoration Network tried and failed to introduce State legislation to transition away from drift gillnets. They had two State Senators willing to author the bill but they missed the deadline. Federalizing HMS permits should be the top priority in order to avoid future legislative efforts that undermine the importance of the DGN fishery. Please refer to the Joint NMFS and CDFW Report on Federal Management of the Large-Mesh Drift Gillnet Limited Entry California Swordfish Fishery: Issues and Solutions for Consideration in the June 2014 Briefing Book under Agenda Item E.2.b.

http://www.pcouncil.org/wp-content/uploads/E2b_SUP_NMFS-CDFW_Rpt_JUNE2014BB.pdf

Amendment ROA: Authorizing SS-Longline Fishery Outside the EEZ and Authorizing Deep-Set Buoy Gear-

After attending an information sharing meeting at PIER on February 21, 2016, I learned that the H-gear, or linked buoy gear is looking to be much more productive and efficient compared to DSBG, and that DSBG may seem obsolete compared to H-gear, but more testing is needed. The HMSMT Report under Agenda Item F.3 suggests that if the Council jointly considered DSBG, H-gear and SS-longline gear for authorization under the same decision process that it would avoid an increased workload. I suggest tabling it until March 2017 when more EFP Reports will be ready.

Swordfish Management and Monitoring Plan-

The June 2016 Council meeting comes before an official announcement from NMFS about whether or not hard caps will be implemented in the DGN fishery. Since the draft Swordfish Management and Monitoring Plan revolves around hard caps, it doesn’t make any sense to revise the Plan until receiving a blessing from NMFS.

Thank you for your attention and consideration.
Jonathan Gonzalez



Audubon CALIFORNIA

February 29, 2016

Ms. Dorothy Lowman, Chair
Pacific Fisheries Management Council
1100 NE Ambassador Place, #101
Portland, OR 97220

Mr. William Stelle, Regional Administrator
NOAA Fisheries, West Coast Region
7600 Sand Point Way NE
Seattle, Washington 98115

Re: Agenda Item I.3: Future Council Meeting Agenda and Workload Planning

Dear Chair Lowman and Council Members, and Mr. Stelle:

We write with concern over references to “shallow set longline fishery outside [U.S.] EEZ” in the Council’s Preliminary Year at A Glance Summary¹ provided in the March, 2016 Briefing Book. As noted in our letter to the Council dated September 2, 2015, and included herein, we oppose the Council authorizing a shallow-set pelagic longline fishery (SSL) for swordfish outside the west coast EEZ unless and until mitigation measures are put in place that would virtually eliminate incidental bycatch of albatrosses and other seabirds.

Similarly, we are concerned about the Highly Migratory Species Management Team’s March 2016 Report to the Council² noting that “the Council could jointly consider DSBG, H-gear and shallow-set longline gear for authorization under the same decision process to avoid the increased workload which could result from considering them sequentially.” We disagree with this approach and urge the Council to reject this joint consideration of gear types and SSL scoping.

The area east of 150 degrees west is important foraging area for black-footed albatross, Laysan albatross (*Phoebastria immutabilis*), and short-tailed albatross (*Phoebastria albatrus*). Of highest concern is black-footed albatross (*Phoebastria nigripes*). Laysan albatross have a stable population, and short-tailed albatross are responding well to multinational recovery activities under the U.S. Endangered Species Act and are slowly increasing from near-extinction. The recovery of black footed albatross, however, has stalled and is likely being constrained by adult

¹ http://www.pccouncil.org/wp-content/uploads/2016/02/I3_Att1_YAG_MAR2016BB.pdf

² http://www.pccouncil.org/wp-content/uploads/2016/02/F3a_HMSMT_Rpt_MAR2016BB.pdf

mortality due to longline bycatch throughout its range.^{3,4,5,6} We are concerned that additional mortality resulting from additional effort within the range of black-footed albatross will further constrain its recovery. Specifically, independent analyses find the existing estimated bycatch of black-footed albatross exceeds thresholds for Potential Biological Removal (PBR).

Our September, 2015 letter attached herein provides a detailed review of these analyses, as well as information on substantial and growing black-footed albatross bycatch in the Hawaii-based shallow set longline fishery.^{7,8} Due to this trend in the Hawaii longline fleet, we do not agree that seabird mitigation measures same as or equivalent to Hawaii regulations (60 CFR 665.35) would be appropriate in any new authorized west coast based fleet.

Seabird protection in the United States EEZ

NMFS, the U.S. Fish and Wildlife Service, and the U.S. Department of State have invested heavily in seabird protection, including reducing bycatch. In 2001 the U.S. developed the *National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries*, fulfilling a national responsibility to reduce incidental seabird catch in longline fisheries as called for in the *International Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries*. In 2014 NOAA reported in the *Implementation of the U.S. National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries*⁹ that the United States “has improved research, outreach and education on, and domestic management of incidental seabird catch, resulting in a significant decrease in seabird incidental catch in its domestic fisheries.”

We agree with these conclusions and applaud the Council, NMFS, Washington Sea Grant, and commercial fisheries partners for their effective collaboration in reducing or eliminating seabird bycatch in west coast fisheries. In 2014-2015 the Council adopted and NMFS put in place regulations for Seabird Avoidance Measures (primarily, streamer lines) in the West Coast groundfish fishery. Reflecting this accomplishment, also in 2015 NOAA’s Seabird Program and partners on the west coast won the Presidential Migratory Bird Federal Stewardship Award for its decades of work in developing and putting in place technologies for reducing seabird bycatch.¹⁰

³ Guy, T. et al. 2013. Overlap of North Pacific albatrosses with the U.S. West Coast groundfish and shrimp fisheries. *Fisheries Research* 147 (2013) 222-234.

⁴ Bakker, V., M. Finkelstein, D. Doak, L. Young, E. VanerWerf, and P. Sievert, 2015. The albatross of assessing and managing risk for wide-ranging long-lived species, In Prep.

⁵ Veran, S., Gimenez, O., Flint, E., Kendall, W.L., Doherty, P.F., Jr., Lebreton, J.-D., 2007. Quantifying the impact of longline fisheries on adult survival in the black-footed albatross. *Journal of Applied Ecology* 44, 942-952.

⁶ Lebreton, J.-D., Veran, S., 2013. Direct evidence of the impact of longline fishery on mortality in the Black-footed Albatross *Phoebastria nigripes*. *Bird Conservation International* 23, 25-35.

⁷ Fernandez, P., D. Anderson^{1*}, P. Sievert and K. Huyvaert. 2001. Foraging destinations of three low-latitude albatross (*Phoebastria*) species. *J. Zool., Lond.* (2001) 254, 391-404

⁸ Finkelstein, M., Keitt, B.S., Croll, D.A., Tershy, B., Jarman, W.M., Rodriguez-Pastor, S., Anderson, D.J., Sievert, P.R., Smith, D.R., 2006. Albatross species demonstrate regional differences in North Pacific marine contamination. *Ecological Applications* 16, 678-686.

⁹ http://www.st.nmfs.noaa.gov/Assets/nationalseabirdprogram/longline_fisheries.pdf

¹⁰ <http://www.washington.edu/news/2015/05/15/washington-sea-grants-ed-melvin-wins-presidential-award-for-seabird-saving-streamer-lines/>

However, as noted by the *Agreement to Conserve Albatrosses and Petrels (ACAP)*, the foremost international agreement that brings countries together to ensure the future of imperiled albatrosses and petrels, “the most significant threat facing albatrosses and petrels is mortality arising from interactions with fishing gear, especially in longline and trawl fishing operations.” The three north Pacific albatrosses –black-footed, Laysan, and short-tailed- have recently been added to the list of ACAP-listed species.¹¹ Although not yet a member, NMFS notes that “the U.S. actively participates in ACAP... and the U.S. will continue to support ACAP’s efforts and will continue activities related to ACAP so we may work with other key nations more effectively on measures for reducing seabird bycatch worldwide.”¹² These statements clearly convey a strong intent on the part of NMFS to continue to be a global leader in the reduction of seabird bycatch, through development and promulgation of best practices in our waters.

We are concerned that the Council’s intent in 2016 to discuss and/or scope a shallow set longline fishery outside the EEZ without ensuring the virtual elimination of seabird bycatch, particularly for black-footed albatross, will undermine this intent. As noted previously, existing seabird bycatch reduction measures in the Hawaii based shallow set long line fishery are not adequately protecting black-footed albatross.

We very much appreciate the proactive actions on the part of the Council to protect seabirds over the last several years, including new regulations requiring seabird bycatch mitigation measures in the west coast fleet, protection of the food base through the unmanaged forage species initiative, and 100% observer coverage in many fleets. We respectfully ask that the Council follow a similarly prudent approach here. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Anna Weinstein".

Anna Weinstein
Marine Program Director

¹¹ http://acap.aq/images/stories/PDF_Docs/En/ACAP_10Year_44pp_e.pdf

¹² <http://www.nmfs.noaa.gov/ia/species/seabirds/seabirds.html>



Audubon CALIFORNIA

September 2, 2015

Ms. Dorothy Lowman, Chair
Pacific Fisheries Management Council
1100 NE Ambassador Place, #101
Portland, OR 97220

Mr. William Stelle, Regional Administrator
NOAA Fisheries, West Coast Region
7600 Sand Point Way NE
Seattle, Washington 98115

RE: Agenda Item G.3 – High Seas Shallow-set Pelagic Longline Fishery

Dear Ms. Lowman, Mr. Stelle, and Council Members,

Audubon California opposes the Council authorizing a shallow-set pelagic longline fishery for swordfish outside the west coast EEZ, unless and until mitigation measures are put in place that would virtually eliminate incidental bycatch of albatrosses and other seabirds. Of highest concern is black-footed albatross (*Phoebastria nigripes*). The recovery of this species has stalled and is likely being constrained by adult mortality via longline bycatch throughout its range.^{1,2,3,4} Specifically, independent analyses find the existing estimated bycatch of black-footed albatross exceeds thresholds for Potential Biological Removal (PBR). Therefore, we are concerned that additional mortality resulting from additional effort within the range of black-footed albatross will further constrain its recovery.

Background

The total breeding population of the black-footed albatross numbers roughly 67,000 pairs, with 95 percent of the population nesting in the Northwestern Hawaiian Islands. The remaining 5% of the birds nest on several remote islands in Japan. Albatrosses are long-lived seabirds with

¹ Guy, T. et al. 2013. Overlap of North Pacific albatrosses with the U.S. West Coast groundfish and shrimp fisheries. *Fisheries Research* 147 (2013) 222-234.

² Bakker, V., M. Finkelstein, D. Doak, L. Young, E. VanerWerf, and P. Sievert, 2015. The albatross of assessing and managing risk for wide-ranging long-lived species, In Prep.

³ Veran, S., Gimenez, O., Flint, E., Kendall, W.L., Doherty, P.F., Jr., Lebreton, J.-D., 2007. Quantifying the impact of longline fisheries on adult survival in the black-footed albatross. *Journal of Applied Ecology* 44, 942-952.

⁴ Lebreton, J.-D., Veran, S., 2013. Direct evidence of the impact of longline fishery on mortality in the Black-footed Albatross *Phoebastria nigripes*. *Bird Conservation International* 23, 25-35.

deferred maturity, low fecundity and natural high rates of adult survival. These life history characteristics make albatross populations especially vulnerable to small increases in adult mortality. According to the U.S.G.S. Status Assessment of Laysan and Black-footed Albatrosses, North Pacific Ocean, 1923-2005⁵ (herein referred to as Arata et al. 2009), “incidental mortality (bycatch) in commercial fisheries is the greatest anthropogenic source of mortality (post-fledging) for both species...the black-footed albatross breeding population currently may be at risk of decline due to fishery bycatch.”

A recent definitive study on the overlap of black-footed albatross foraging range with some sectors of the west coast groundfish fleet notes that “low fishing mortality is of conservation concern because fishing mortality is often underestimated and albatrosses are far-ranging and can suffer mortality in many fisheries, resulting in cumulative negative population level impacts.”⁶

Other threats to both Laysan and black-footed albatrosses include predation by introduced mammals, reduced reproductive output due to contaminants, nesting habitat loss and degradation due to human development and invasive plant species, and potential loss and degradation of habitat due to climate change and sea-level rise.⁷

Evaluation of fisheries bycatch on Black-footed albatross

Two recent assessments used Population Viability Assessment approaches with Potential Biological Removal to evaluate the risk of fisheries bycatch to black-footed albatrosses. Both show a high sensitivity of the species to small changes in bycatch rate. The Potential Biological Removal (PBR) is an estimate of human caused mortality a population can withstand while recovering towards or maintaining an optimal sustainable population. The PBR approach is mandated for stock assessments under the Marine Mammal Protection Act and has been employed extensively to assess bycatch mortality for sea turtles and well as land and seabirds including albatrosses.^{8,9,10}

First, Arata et al. evaluated the status and trends of Laysan and black-footed albatross populations using linear regression, population viability analysis (PVA) and age-structured matrix models. This analysis found that the black-footed albatross population, summed across all three colonies, is stable, or slightly increasing, with a population growth rate of 0.03 percent per year. The report noted the presence of uncertainties in the model and emphasized the importance of continued information to improve the accuracy of future assessments. These uncertainties are reflected in the results, for example the PVA results for the black-footed albatross colony on French Frigate Shoals indicate that this colony has a 50-percent probability of increasing by 74 percent in the next 60 years, but it also has a 35-percent probability of significantly decreasing.

⁵ Arata, J.A., Sievert, P.R., and Naughton, M.B., 2009, Status assessment of Laysan and black-footed albatrosses, North Pacific Ocean, 1923–2005: U.S. Geological Survey Scientific Investigations Report 2009-5131.

⁶ Guy, T. et al. 2013. Ibid.

⁷ Arata et al. 2009. Ibid.

⁸ Zydalis, R., Bellebaum, J., Osterblom, H., Vetemaa, M., Schirmeister, B., Stipniece, A., Dagys, M., van Eerden, M., Garthe, S., 2009. Bycatch in gillnet fisheries - An overlooked threat to waterbird populations. *Biological Conservation* 142, 1269-1281.

⁹ Dillingham, P.W., Fletcher, D., 2011. Potential biological removal of albatrosses and petrels with minimal demographic information. *Biological Conservation* 144, 1885-1894.

¹⁰ Bakker et al. 2015. Ibid.

In particular, the report noted that “there is no scientific observer program on the International pelagic longline fleet, thus preventing accurate estimates of total bycatch and hampering establishment of mitigation programs.”

In addition to uncertainties about the rate of black-footed albatross bycatch in the international fleet, there are substantial uncertainties about the actual rate of bycatch in observed fisheries. Even where there is 100% observer coverage, such as in the U.S.-based longline fleets, bycatch estimates for seabirds are generally considered to be biased low.¹¹ For example, Arata et al. used a percentage of injured birds (20.9%) as a proxy to estimate birds that were caught but not hauled in. But two recent studies showed higher pre-haul loss rates of 50%¹² and 28% to 34%.¹³

The second assessment by a group of independent scientists re-evaluated the results of Arata et al.,¹⁴ and also used an albatross-specific PBR that is lower than that of Arata et al. 2009.¹⁵ This analysis showed that a) the Arata et al. PBR was exceeded under a higher bycatch scenario, and b) the more conservative, albatross-specific PBR was exceeded under both moderate and higher bycatch scenarios (Figure 1). In this study, the higher bycatch scenario showed a better model fit and thus appears to be closer to the actual bycatch rate. This analysis also showed a slower population-wide mean growth rate of 0.018/year.

Regardless of these differences, both models show high sensitivity to small changes in bycatch rate for black-footed albatross and point to the high importance of ensuring bycatch is held to negligible levels in commercial fisheries.

¹¹ Lebreton, J.-D., Veran, S., 2013. Direct evidence of the impact of longline fishery on mortality in the Black-footed Albatross *Phoebastria nigripes*. *Bird Conservation International* 23, 25-35.

¹² Brothers, N., A. Duckworth, C. Safina, and E. Gilman. 2010. Seabird Bycatch in Pelagic Longline Fisheries Is Grossly Underestimated when Using Only Haul Data. Volume 5, Issue 8, e12491.

¹³ Gilman, E., N. Brothers, D. Kobayashi. 2005. Principles and approaches to abate seabird bycatch in longline fisheries. *Fish and Fisheries* 6(1): 35-49.

¹⁴ Baker et al. 2015. *Ibid.*

¹⁵ Dillingham, P.W., Fletcher, D. 2011. *Ibid.*

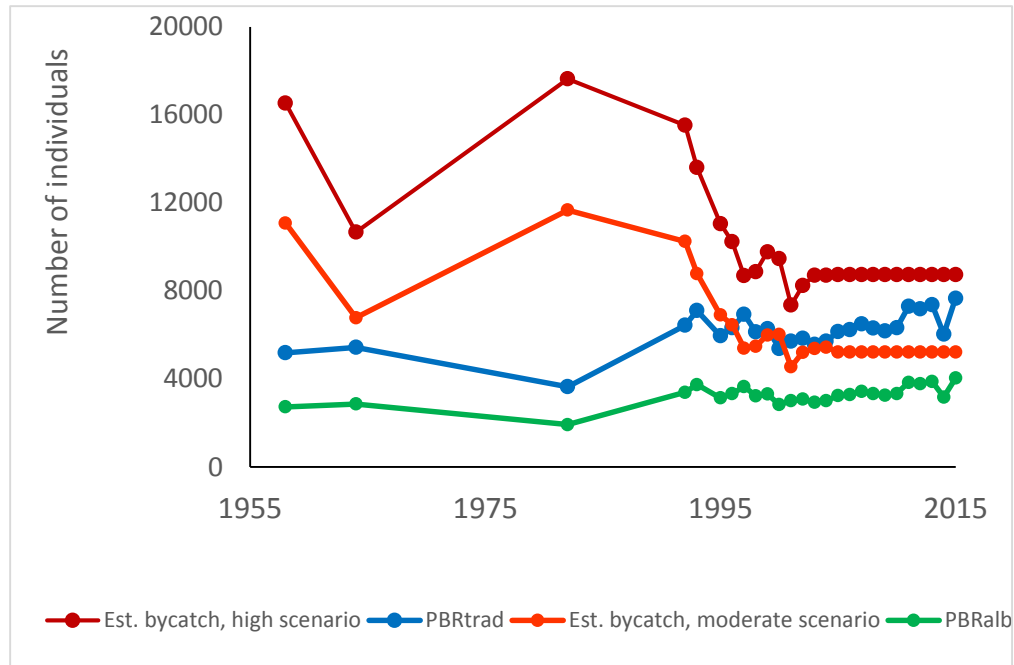


Figure 1. The predicted effects of bycatch of black-footed albatross. (a) Estimated bycatch compared to the Potential Biological Removal rate based on the traditional formula (PBR_{trad}, Wade 1998), and an albatross-specific formula (PBR_{alb}, Dillingham and Fletcher 2011).

Risk to black-footed albatross of a shallow set longline fishery outside to EEZ

Black-footed albatross use the proposed expansion area in both breeding (Figure 2) and nonbreeding (Figure 3) seasons.¹⁶ The area east of 150 degrees west is important foraging area for BFAL, LAAL, and STAL.^{17,18}

¹⁶ Agreement on the Conservation of Albatrosses and Petrels. 2015. Species Profiles: Black-footed albatross (*Phoebastria nigripes*). <http://www.acap.aq/en/resources/acap-species2/239-black-footed-albatross/file>

¹⁷ Fernandez, P., D. Anderson^{1*}, P. Sievert and K. Huyvaert. 2001. Foraging destinations of three low-latitude albatross (*Phoebastria*) species J. Zool., Lond. (2001) 254, 391-404

¹⁸ Finkelstein, M., Keitt, B.S., Croll, D.A., Tershy, B., Jarman, W.M., Rodriguez-Pastor, S., Anderson, D.J., Sievert, P.R., Smith, D.R., 2006. Albatross species demonstrate regional differences in North Pacific marine contamination. Ecological Applications 16, 678-686.

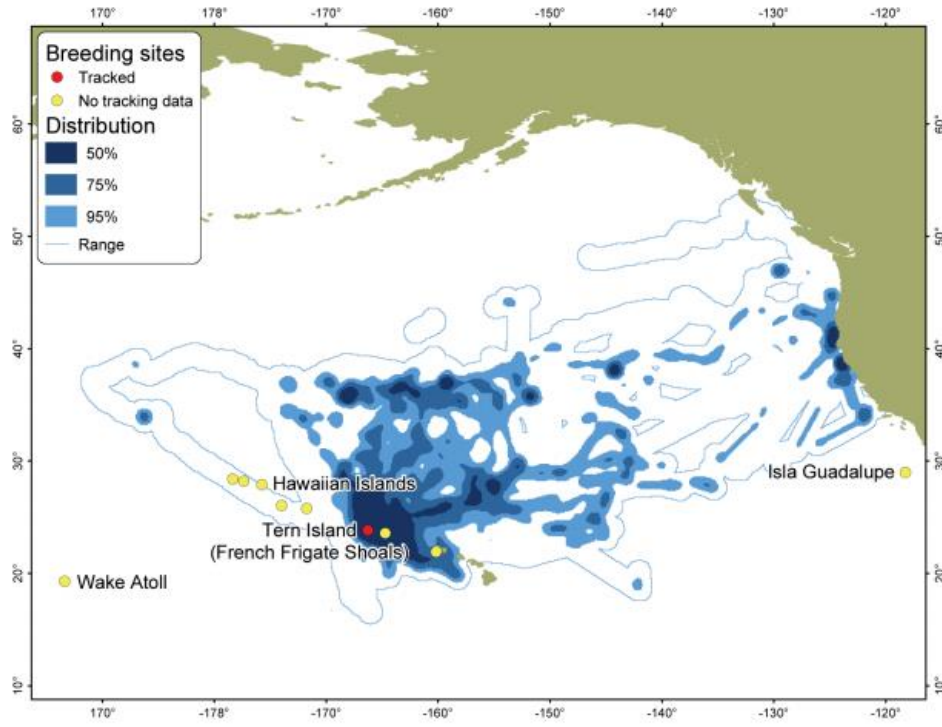


Figure 2. Satellite tracking of breeding adult black-footed albatrosses, fall/winter.

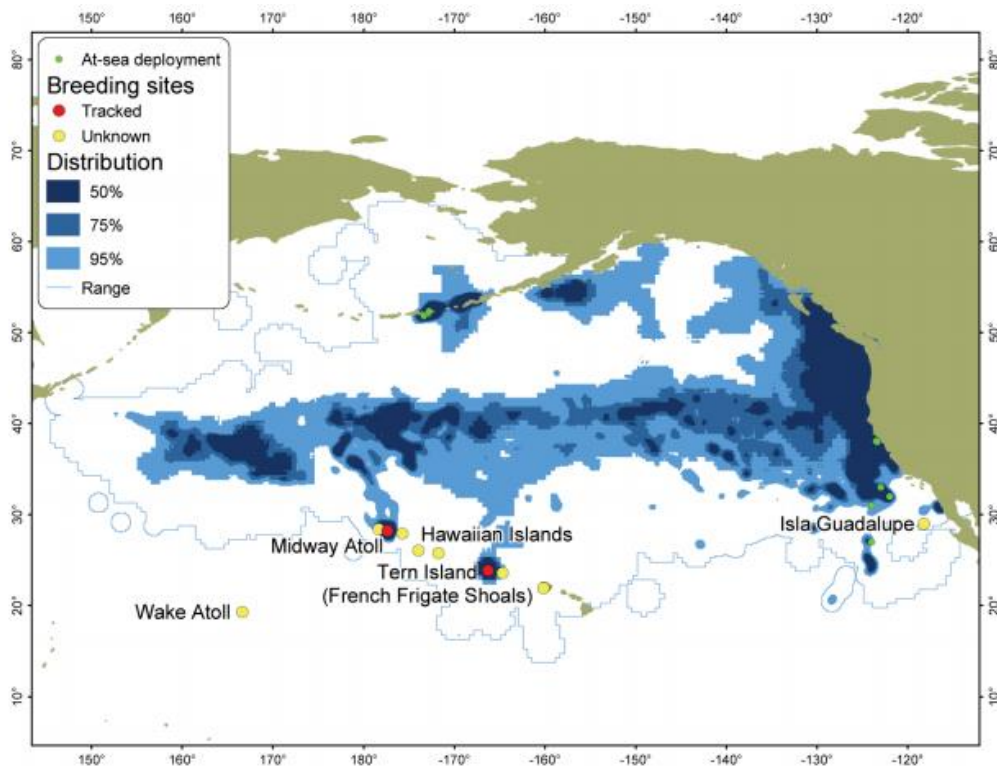


Figure 3. Satellite tracking of non-breeding adult black-footed albatrosses, spring/summer.

According to information in the scoping document, the gear type to be used has in the Hawaii shallow set longline fishery resulted in an average observed take of 20.5 black-footed albatross/year observed mortality over 10 years. This rate has increased about four-fold over the ten years, from about 0.01 interactions/1000 hooks to about 0.042 interactions/1000 hooks, suggesting the more recent interactions are closer to 30 birds/year. In 2014 the Council took action to require mitigation to reduce seabird mortality, specifically black-footed and short-tailed albatrosses, in the west coast groundfish fleet. The Council based this action on a 2002-2009 black-footed albatross bycatch rate of 43 birds/year.¹⁹ Authorizing a new west coast based shallow set longline fishery that has a demonstrated rate of take approaching that of the groundfish fishery, would be inconsistent on the part of NMFS and the Council.

Due to the increasing rate of albatross interactions in the Hawaii-based fleet, we urge NMFS to evaluate current mitigation measures and move to improve best practices and mitigation measures to reverse this trend in the Hawaii-based fleet, and we do not agree with the scoping document that “seabird mitigation measures same as or equivalent to Hawaii regulations (60 CFR 665.35)” would be appropriate in any new authorized west coast based fleet.

We very much appreciate the proactive actions on the part of the Council to protect seabirds over the last several years, including new regulations requiring seabird bycatch mitigation measures in the west coast fleet, protection of the food base through the unmanaged forage species initiative, and 100% observer coverage in many fleets. We respectfully ask that the Council follow a similarly prudent approach here. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Anna Weinstein".

Anna Weinstein
Marine Program Director

¹⁹ Guy et al. 2013. Ibid.