

ENDANGERED SPECIES ACT CONSULTATIONS ON SALMON AND SEABIRDS

In 2013, National Marine Fisheries Service (NMFS) Sustainable Fisheries Division requested to reinstate consultation pursuant to section 7 of the Endangered Species Act on the take of listed salmonids in the groundfish fishery. Since then, NMFS has worked with the Council to develop the proposed action upon which the consultation would be based. This process was last considered by the Council at its April 2017 meeting. At that time, the Council provided guidance to NMFS on the proposed action that will be the basis for the consultation including a description of groundfish fisheries, Chinook salmon bycatch thresholds used to consider reinstatement of consultation, and additional bycatch mitigation measures that may be considered as part of the 2019-2020 biennial harvest specifications and management measures process. NMFS will report on progress to date completing the biological opinion for this consultation, and, if available, report on results of the analysis. This could include prospective terms and conditions that implement the reasonable and prudent measures specified in the incidental take statement.

At its April 2017 meeting, the Council also received the [Groundfish Endangered Species Act Workgroup Report](#), which includes a discussion of the United States Fish and Wildlife Service (USFWS) section 7 consultation on the effects of the groundfish fishery on federally endangered short-tailed albatross (*Phoebastria albatrus*) and California least tern (*Sterna antillarum browni*); and the federally threatened marbled murrelet (*Brachyramphus marmoratus*), southern sea otter (*Enhydra lutris nereis*), and bull trout (*Salvelinus confluentus*) and their designated critical habitat. The biological opinion and incidental take statement for the proposed action was issued on May 2, 2017 (Attachment 1). In its opinion, USFWS concurred with the determination NMFS made in its biological assessment that the proposed action is not likely to adversely affect the marbled murrelet, California least tern, southern sea otter, bull trout, nor bull trout critical habitat. USFWS also concluded that implementation of the activities as described in the NMFS biological assessment would not jeopardize the continued existence of short-tailed albatross.

The incidental take statement attached to this biological opinion identifies five reasonable and prudent measures (RPMs) that are necessary and appropriate for NMFS to minimize take of short-tailed albatross, and lists associated terms and conditions necessary to implement the RPMs. These terms and conditions are non-discretionary. The Council may provide recommendations to NMFS on implementation of these terms and conditions. In particular, the Council should develop recommendations to address the terms and conditions for RPM1, which require NMFS to amend or refine regulations to mandate vessels that use the longline gear to:

- i) Employ streamer lines in the commercial longline fishery of the Pacific Coast Ground Fishery consistent with the Alaska streamer line regulations for Federal waters, including the use of single streamer lines on boats 26-55 feet in length, OR
- ii) Set longlines after civil sunset.

NMFS must implement these regulation changes as soon as practical, but initiation of implementation shall not exceed a three-year period after the biological opinion issuance date. The Council should decide whether to address these regulation changes through the 2019-2020 biennial harvest specifications and management measures process or through a separate three-meeting decision process.

The terms and conditions also direct NMFS to conduct research on the effect of floating gear on albatross bycatch and improved methods to minimize risk of bycatch. A recent research paper by Gladics, et al.¹ is relevant to this concern. The paper reports results on the sink rate for longline gear when floats are attached to the mainline, which is a common practice in the West Coast groundfish fixed gear fishery. Their results confirm that bird-scaring (streamer) line regulations from Alaska were sufficient to protect baits from bird attacks on longlines without floats, but not baits on longlines with floats. The Council may wish to consider this information as it develops a regulatory proposal to address the terms and conditions for RPM1.

Council Action:

Provide Recommendations to National Marine Fisheries Service on Mitigation Measures and a Process for Implementation of Biological Opinions.

Reference Materials:

1. Agenda Item F.7, Attachment 1: Biological Opinion Regarding the Effects of the Continued Operation of the Pacific Coast Groundfish Fishery as Governed by the Pacific Coast Groundfish Fishery Management Plan and Implementing Regulations at 50 CFR Part 660 by the National Marine Fisheries Service on California Least Tern (*Sterna antillarum browni*), Southern Sea Otter (*Enhydra lutris nereis*), Bull trout (*Salvelinus cojifluentus*), Marbled Murrelet (*Brachyramphus marmoratus*), and Short-tailed Albatross (*Phoebastria albatrus*), and Accompanying Incidental Take Statement.

Agenda Order:

- F.7 Endangered Species Act Consultations on Salmon and Seabirds Kit Dahl
- a. United States Fish and Wildlife Service Report
 - b. Reports and Comments of Management Entities and Advisory Bodies
 - c. Public Comment
 - d. Council Action: Provide Recommendations to National Marine Fisheries Service on Mitigation Measures and a Process for Implementation of Biological Opinions

PFMC
10/16/17

¹ Amanda J. Gladics, Edward F. Melvin, Robert M. Suryan, Thomas P. Good, Jason E. Jannot, Troy J. Guy, Fishery-specific solutions to seabird bycatch in the U.S. West Coast sablefish fishery, In *Fisheries Research*, Volume 196, 2017, Pages 85-95, ISSN 0165-7836, <https://doi.org/10.1016/j.fishres.2017.08.015>.