



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

JUL 13 2017

OFFICE OF
WATER AND WATERSHEDS

Mr. Paul Henson
State Supervisor
U.S. Fish and Wildlife Service
Oregon Fish and Wildlife Office
2600 SE 98th Avenue, Suite 100
Portland, Oregon 97266

Re: Requesting Formal Consultation for the General NPDES Permit for Offshore Seafood Processing Discharge within Federal Waters off the coasts of Washington and Oregon (Permit No. WAG520000)

Dear Mr. Henson:

On June 19, 2017, the EPA Region 10 submitted a revised Biological Evaluation, draft permit, and Fact Sheet for the General NPDES Permit for Offshore Seafood Processing Discharge within Federal Waters off the coasts of Washington and Oregon (General Permit). As was explained in that letter, the EPA has made significant revisions to the draft General Permit since the original public notice and submission of a Biological Evaluation in August, 2015. The EPA has revised the Biological Evaluation to reflect these changes, as well as additional review of the scientific literature.

In our June 19 letter, the EPA determined that the General Permit may affect, but is not likely to adversely affect the marbled murrelet and the short-tailed albatross. The USFWS's recent Biological Opinion and Incidental Take Statement for the Pacific Coast Groundfish Fishery (USFWS, 2017) includes trawl cable interaction and offal management, and the EPA has included the relevant requirements of that Biological Opinion into the General Permit in order to protect listed seabirds. Via the June 19 letter, the EPA resubmitted the Biological Evaluation for USFWS review and consideration, and requested USFWS concurrence on ESA Section 7 consultation for this General Permit.

On July 12, 2017, the EPA received a response from your office that, although the draft permit has been designed to minimize impacts to seabirds and incorporates the measures that USFWS required in the Pacific Coast Groundfish Fisheries Biological Opinion (USFWS, 2017), the potential for take of the albatross remains because "...seabirds, including the ESA-listed short-tailed albatross (*Phoebastria albatrus*, *albatross*), can be attracted to seafood processing waste discharge, which can result in injury and/or mortality due to ship strike and cable interactions (Zador and Fitzgerald, 2008 and Melvin, et al., 2004)." The July 12 response further indicated that the USFWS cannot concur with the EPA's determination that the proposed project is "not likely to adversely affect" short-tailed albatross. In light of this response, the EPA hereby requests formal ESA consultation for this General Permit. The EPA understands that since the USFWS has already considered the anticipated take in the Pacific Coast Groundfish Fisheries Biological Opinion, formal consultation for this General Permit will be a relatively streamlined process, and will draw from the recently finalized Biological Opinion with regard to trawl cable interaction and management of seafood processing waste.

The EPA continues to appreciate the willingness of the USFWS to engage with the EPA regarding this General Permit. If you have any questions or comments about this letter, please feel free to contact me directly at (206) 553-1755, or have your staff contact Catherine Gockel of my staff at (206) 553-0325 or by email at gockel.catherine@epa.gov.

Sincerely,



Michael Lidgard, Acting Director
Office of Water and Watersheds

cc: Laura Todd, USFWS Newport (*via electronic transmission*)

References

- USFWS (U.S. Fish and Wildlife Service). 2017. 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*) Prepared by the Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service Portland Oregon. FWS Reference Number 01EOFW00-2017-F-0316
- Zador, S. G., and S.M. Fitzgerald. 2008. Seabird attraction to trawler discards. AFSC Processed Report 2008-06. NOAA, National Marine Fisheries Service. Seattle, WA.