UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

October 12, 2004

Tom Graham
National Marine Fisheries Service
Pacific Islands Regional Office
1601 Kapiolani Boulevard., Suite 1110
Honolulu, HI 96814

Subject: Seabird Interaction Mitigation Methods and Pelagic Squid Fishery Management

Draft Environmental Impact Statement (Draft EIS) [CEQ # 040405]

Dear Mr. Graham:

The Environmental Protection Agency (EPA) has reviewed the document referenced above. Our review and comments are pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

We have rated this Draft EIR/EIS as Environmental Concerns, Insufficient Information (EC-2) (see enclosed "Summary of Rating Definitions"). This document addresses two separate actions under the Fishery Management Plan (FMP) for the Pelagic Fisheries of the Western Pacific Region and the High Seas Fishing Compliance Act. The actions are intended to reduce interactions with seabirds in the Hawaii-based longline fishery and manage the U.S. high seas squid jigging fishery (squid fishery). Because these actions are analyzed separately, our comments are action-specific.

EPA has reviewed and commented on many related management plans such as the Draft and Final EISs for the FMP for the Pelagic Fisheries of the Western Pacific Region (2001). Many of our comments have been incorporated into the final decisions. There have been multiple National Marine Fisheries Service (NMFS) and U.S. Fish and Service (FWS) species assessments, consultations, and associated litigation surrounding the management of these fisheries. In particular, the shallow-set swordfish fishery north of the equator, was temporarily closed in 2001, due to interactions with sea turtles. While we commend the comprehensive, ecosystem-based approach taken by NMFS to analyze and improve the fishery, we are concerned with the potential environmental impacts of the actions as proposed and the lack of supporting information.

The U.S. high seas squid jigging fishery has not been previously evaluated under NEPA. Therefore, it is important to include the information needed to make an informed decision. The history associated with the management of the emerging squid fishery in the U.S. should be described in more detail, as well as future management plans. We recognize the significant challenges in managing a complex international resource such as the squid fishery. However, baseline environmental information should be provided to accurately describe the existing conditions the fisheries in the region and the potential for impacts to protected species.

In addition, we are concerned that the Preferred Alternative for seabird interaction mitigation does not seem to incorporate the results of effectiveness studies that have been completed regarding various mitigation measures. Side-setting, in particular could reduce incidental catch of seabirds by 99-100 percent, in addition to having operational benefits (Draft EIS, page 214). While we recognize the need to provide flexibility for shallow-set longline fishers, we recommend that NMFS evaluate the implementation of an alternative with less potential for environmental impacts, such as Alternative SB10B. This would require side setting, except when technically infeasible.

We appreciate the opportunity to review this Draft EIS. Please send two copies of the Final EIS to this office (mailcode: CMD-2) when it is released for public review. If you have any questions, please call Summer Allen, the lead reviewer for this project, at (415) 972-3847.

Sincerely,

/S/
Lisa B. Hanf, Manager
Federal Activities Office

MI# 004441
Enclosures:
EPA's Detailed Comments
Summary of Rating Definitions

cc: Holly Freifeld, U.S. Fish and Wildlife Service

Seabird Interaction Mitigation Measures Alternatives

EPA recognizes the lack of available information regarding short-tailed albatrosses and notes that no observations were made specifically for this species. However, we also note the success rate of methods such as side-setting to reduce impacts to seabirds when compared to other mitigation measures. For example, the Draft EIS estimates that if all vessels in the Hawaii longline fishery switched to the side-setting seabird deterrent method, 10 to 20 birds might be captured per year. However, if all fisherman used an underwater setting chute, about 338 birds per year would be captured, and 1,743 birds for shallow-setting vessels. Current measures could led to the catch of 1,800 birds per year (page 216). Due to these results, it seems appropriate to consider an alternative with less potential for environmental impacts.

The Preferred Alternative for swordfish vessels incorporates current mitigation measures (with the exception of thawed blue-dyed bait) or one of the following: side-setting, underwater setting chute, or a tori line. For implementation on tuna vessels, it incorporates the same measures when fishing north of 23° N latitude. While all of these measures have utility, the decision to abandon the use of blue-dyed bait is not discussed in detail.

Recommendations:

As the purpose of this action is to reduce the adverse effects on interactions with seabirds in the Hawaii-based longline fishery (Executive Summary, page 1), NMFS should consider an alternative that would require mitigation measures with a higher success rate, such as mandatory side-setting, when feasible (Alternative SB10). The Final EIS should discuss the discontinuation of the use of blue-dyed bait if discontinuation is part of the alternative that is carried forward. In particular, this should be discussed in light of the fact that blue-dyed bait was a mitigation commitment in the Pelagic Fisheries FMP Record of Decision (ROD).

U.S. Squid Fishery Context

EPA recognizes that the squid fishery is a developing area of the economy in the U.S. Exclusive Economic Zone (EEZ). However, we would like to see more information regarding the effects of this fishery on the affected resources. While there is some discussion of the impacts of the proposed action on marine mammals and seabirds, supporting data is not included. The discussion of the management plan and associated alternatives for the squid fishery is confusing and the specific implementation of these measures is not clear. The feasibility of implementing many of these alternatives should be assessed. In particular, alternatives including international monitoring should be evaluated in the context of multiple, fragmented forums that exist for fisheries management in the Pacific. In addition, it is not

apparent whether there has been an experimental fishery to determine effects on the target species and protected species, or if this is planned for the near future.

Recommendations:

The Final EIS should include an easy-to-read description of the proposed management of the squid fishery, the background, and the context of the associated fisheries. NMFS should consider incorporating an experimental fishery into the proposed plan to determine target and protected species impacts, before implementing the project as proposed. If an experimental fishery is not feasible, the justification should be included in the Final EIS as well as data collection measures that would allow population and environmental monitoring on a consistent basis. This is particularly important in that the shallow-set swordfish fishery was reestablished in 2003 and the effects of sea turtle mitigation measures on seabirds, has not been assessed (Draft EIS, Executive Summary, page i.) Additional commitments may be needed to protect this fishery once it is well-established.

Associated Plans

As stated previously, this document follows a series of Fishery Management Plans (FMPs), Amendments, and Endangered Species Act consultations. While the Draft EIS describes the current mitigation measures that are incorporated into the most recent alternatives, there is no information regarding the applicability of previous requirements from the Record of Decision (ROD) for the Pelagic Fisheries FMP. The Draft EIS acknowledges that other NEPA documentation will follow for related issues in the fishery. Amendments may need to be considered if the results of Pelagic Management Unit Species (PMUS) stock assessments show population declines. EPA notes that NMFS expects a more recent Biological Opinion for short-tailed albatrosses with the next week.

Recommendations:

The Final EIS should include information regarding the feasibility of including additional mitigation measures that were evaluated in the 2001 Pelagics Fisheries FMP ROD. The Final EIS should document and assure compliance with all terms of the Short-tailed Albatross Biological Opinion issued by FWS in November 2002 for the tuna sector of the Hawaii-based longline fishery and associated amendments. When the forthcoming Biological Opinion on the effects of the swordfish sector of the fishery on short-tailed albatrosses is issued, it should be incorporated into the into the alternative selected in the Final EIS as well as the mitigation measures included in the ROD.