

**AGENDA B-6  
FEBRUARY 2007**

**U.S. Fish and Wildlife Service**  
February 7, 2007

**Northern Sea Otter:** The next Recovery Team meeting is scheduled for April 10-11, 2007. Minutes from the previous meeting, held in late October 2006, are in the final cleanup stages and will be available for review on the team's web site in the near future.

On December 19, 2006, the Center for Biological Diversity (CBD) filed a lawsuit in Federal District Court for failure to designate critical habitat for the threatened southwest Alaska Distinct Population Segment (DPS) of the northern sea otter. Although this DPS was listed in August 2005, the Service had stated that critical habitat was not determinable at the time of listing. This action allowed the Service one additional year to designate critical habitat, which has not been done. The Service is working with the recovery team to help identify what areas and/or features might be important or essential to the conservation of the southwest Alaska DPS.

**Short-tailed Albatross:** Attached is the Service's analysis and recommendations on the January 2007 Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis for the Regulatory Amendment to Revise Regulations for Seabird Avoidance Measures in the Hook-and-Line Fisheries off Alaska to Reduce the Incidental Take of Short-tailed Albatross and Other Seabird Species. Our comments focus on the impacts to short-tailed albatross and other seabirds that could result from alternatives and options being considered in IPHC area 4E, and proposed changes Inside Waters designations.



# United States Department of the Interior

FISH AND WILDLIFE SERVICE

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Anchorage, Alaska 99503-6199

IN REPLY REFER TO:

FWS/AFES/AFWFO

JAN 26 2007

Ms. Stephanie Madsen, Chair  
North Pacific Fishery Management Council  
605 West 4th, Suite 306  
Anchorage, Alaska 99501-2252

Dear Ms. Madsen:

The North Pacific Fishery Management Council has worked effectively with the U.S. Fish and Wildlife Service (Service) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries in implementing measures to protect the endangered short-tailed albatross (*Phoebastria albatrus*), and other seabirds from incidental take in Alaska's longline fishery. When it first became apparent that regulations were needed to help protect the short-tailed albatross, the Council, in 1997, adopted its version of the Commission for the Conservation of Antarctic Marine Living Resources regulations. Modifications to these regulations only occurred after the University of Washington's Sea Grant Program (WSG) completed precedent-setting seabird bycatch research in Alaska and made science-based recommendations for regulation changes in 2003, which the Council then adopted in 2004. To further address the needs of smaller vessels fishing in protected waters, the WSG and the Alaska Marine Advisory Program launched new studies to: 1) develop more applicable seabird deterrent devices for small vessels; and 2) determine whether seabirds were at risk of bycatch in inside waters. The Service supported all of these efforts, and even funded a large portion of the research.

The Council has a strong history of making decisions based upon scientific data. When sufficient data have not been available, the Council supported gathering the necessary information and deferred decision-making until that information was available. However, the Council is currently considering options for International Pacific Halibut Commission area 4E that go beyond the data presented in Edward Melvin et al. (2006), as well as more recent short-tailed albatross satellite telemetry data included in the January 2007 Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Draft EA). We believe that this new information should be considered before final action on revised seabird regulations is taken. We are concerned that the Council could remove protection measures for the short-tailed albatross in the absence of data supporting that decision. We have evaluated the options as contained in the Draft EA, and our recommendations follow.

#### 4E Exemptions

The Service and its research partners have tagged between 1 and 2 percent of the total short-tailed albatross population with satellite transmitters. We have meaningful tracking information for less than 1 percent of the total population in Alaskan waters (greater than 2 weeks of transmissions within the Alaska Exclusive Economic Zone). At least two of our tagged birds spent time in the southwest portion of area 4E. Simple extrapolation of this sparse data suggest that perhaps hundreds of short-tailed albatrosses have used area 4E during the course of our study. Consequently, our data do not support modifying alternatives 2 and 3 of the EA to allow 26-32 foot vessels to set longline gear in 4E while towing only a buoy bag. Similarly, the data do not support the suboptions exempting vessels of this size class from using all seabird avoidance measures. We note that the short-tailed albatross adult caught on September 21, 1998, was caught by a vessel that was towing a buoy bag. The vessel that was towing this buoy bag was doing so in an ineffective, albeit legal manner. However, regulations still do not stipulate performance measures for buoy bag deployment. Adoption of Alternative 2/Option 3 or Alternative 3/Option 3 will trigger reinitiation of formal Section 7 consultation between the Service and NOAA Fisheries.

Consideration could be given to subdividing area 4E, allowing for sub-areas to be exempted from seabird regulations. However, we believe that subdivision of this area should be undertaken with caution and backed by scientific justification. Spatial analysis methods, such as kreiging of short-tailed albatross satellite telemetry data, could provide the scientific basis to justify removal of seabird deterrent regulations in certain sub-areas.

#### Inside Waters

The Service supports the proposed revisions for waters around Chatham Strait, Dixon Entrance, and Cross Sound as described in alternatives 3.A.1., 3.A.2., and 3.A.3. Alternative 3.A.3. Sub-option 1 further subdivides Alaska Department of Fish and Game (ADF&G) statistical area 365804 based upon a fairly obvious breaking point; a point at which four islands and two peninsulas shelter waters of Glacier Bay and Icy Strait from the sea conditions of the Gulf of Alaska. We support this proposed Cross Sound line, noting only that it should be slightly altered so that it connects Point Lavinia and Point Wimbledon. This modification would then include the sheltered waters of Dundas Bay as inside waters.

Alternative 3.A.1. Sub-option 1 draws a line across Chatham Strait just north of documented sightings of black-footed albatrosses (*Phoebastria nigripes*); the nearest short-tailed albatross telemetry records are adjacent to the southern edge of this ADF&G statistical area (345603). Although this area could be subdivided to allow portions of area 345603 to be considered inside waters, the seabird survey samples in this area are limited and the northernmost observations of albatross in 345603 are likely to change from year to year. Unlike Cross Sound, there is no obvious geographic barrier to discourage albatross from wandering further into Chatham Strait. Therefore, lacking a geographic basis for drawing a border between inside and outside waters, we recommend that the line subdividing ADF&G statistical area 345603 be placed at a point where bathymetric or oceanographic features (or some other feature) indicate a change from outside to inside water conditions. If no such features exist, we hope that the Council remains

open to revising the border in the future should short-tailed albatross be found further north into inside waters of Chatham Strait. Having noted these points, the Service is supportive of Alternative 3 without options.

Should you have any questions regarding our albatross satellite tracking data or other aspects of this letter, please contact Leonard Corin, the Service's representative on the Council, at (907) 786-3619, or Greg Balogh, Endangered Species Branch Chief, Anchorage Fish and Wildlife Field Office, at (907) 271-2778.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard P. Corin". The signature is fluid and cursive, with the first name "Leonard" being the most prominent.

U.S. Fish and Wildlife Service  
Representative to the NPFMC

Enclosure

### Literature Cited

- Melvin, E.F., M.D. Wainstein, K.S. Dietrich, K.L. Ames, T.O. Geernaert, and L.L. Conquest. 2006. The distribution of seabirds on the Alaskan longline fishing grounds: implications for seabird avoidance regulations. Washington Sea Grant Program. Project A/FP-7, 20 pp.
- National Marine Fisheries Service. 2007. Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis for a regulatory amendment to revise regulations for seabird avoidance measures in the hook-and-line fisheries off Alaska to reduce the incidental take of short-tailed albatross and other seabird species. Draft for public review. Alaska Regional Office, 102 pp.