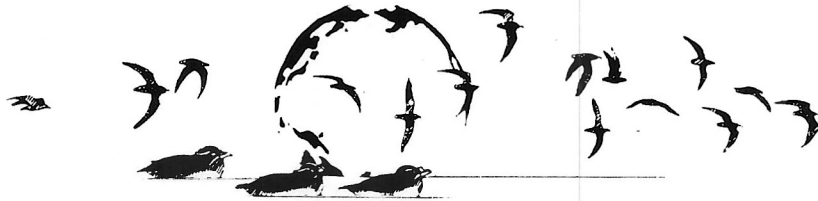


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# Pacific Seabird Group



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DEDICATED TO THE STUDY AND CONSERVATION OF PACIFIC SEABIRDS AND THEIR ENVIRONMENT

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December 31, 1998

Dr. William Hogarth, Director  
National Marine Fisheries Service  
Southwest Region  
501 W. Ocean Blvd., Suite 4200  
Long Beach, CA 90802

Re: Freedom of Information Act Request

Dear Dr. Hogarth:

On behalf of the Pacific Seabird Group (PSG), this is a request for records pursuant to the Freedom of Information Act, 5 U.S.C. § 552 and the provisions of 15 C.F.R. Part 4. PSG is an international organization that was founded in 1972 to promote knowledge, study and conservation of Pacific seabirds. PSG's members come from the entire Pacific Basin, and include biologists who have research interests in Pacific seabirds, government officials who manage seabird populations and refuges, and individuals with interests in marine conservation.

PSG is concerned about the continued killing of Laysan and black-footed albatrosses in Hawaiian longline fisheries. Our concerns have increased with the sighting of a short-tailed albatross from the Townsend Cromwell while it was longlining on a swordfish cruise in 1997. This gives rise to concerns over the taking of these birds in violation of the Endangered Species Act. Methods such as weighting lines and using poles with bird scaring-streamers, when used properly, can avoid virtually all seabird losses. PSG wishes to understand the scientific basis for NMFS' failure to require the use of avoidance measures to prevent such seabird mortality in Hawaiian longline fisheries.

PSG asked NMFS years ago to propose rules for the longline fishery similar to those in Alaska.

For purposes of this request, the term "records" is defined at 15 C.F.R. § 4.3, and includes, but is not limited to, any report, intra-agency memorandum, analysis, correspondence, completed observer form, or data (electronic or otherwise) whether prepared by NMFS observers or contractors or the Western Pacific Regional Fishery Management Council. We limit our request to the period from January 1, 1990 to the date of this letter.

Please provide these materials to me at my law office:

Craig S. Harrison  
Hunton & Williams  
1900 K Street, N.W. Suite 1200  
Washington, DC 20006-1109

- (1) Records of consultations under § 7 of the Endangered Species Act with regard to the short-tailed albatross, including biological assessments and communications with the U.S. Fish and Wildlife Service. NMFS's Director of Protected Resources stated in a letter dated September 25, 1997 that "a Biological Assessment will be prepared and consultations will be initiated to address concerns about short-tailed albatross. The assessment should be completed within 3 months."
- (2) Records that evaluate the implementation of voluntary measures to reduce seabird bycatch, including measures being used and their effectiveness. If no program has begun, records explaining why this is so, and when a program will begin and end.
- (3) Records on sightings of short-tailed albatrosses in Hawaiian waters, including the dates, locations and vessel names. If fishing operations were being conducted include the type of fishery and any avoidance measures being used.
- (4) Records on the annual seabird mortality rate by species per unit of fishing effort (e.g., mortality per 1,000 hooks set).
- (5) Records on the annual fishing effort of the Hawaii longline fleet (e.g., number of trips, number of hooks set) broken down by fishery and by whether observers were or were not present.
- (6) Records on analyses that estimate annual mortality for seabirds by species and fishery.
- (7) Records on the number and percentage of vessels employing each method of avoiding seabird bycatch, by fishery.

(8) Records presented by Pierre Kleiber, NMFS, at a black-footed albatross workshop this fall and all background information developed related to estimates of albatross mortality.

(9) Records relating to changes made in seabird data collection and the assessment of the effectiveness of avoidance measures that were referred to in a September 25, 1997 letter from Hilda Diaz-Soltero, NMFS, which stated "Some changes are being made to the seabird data collection protocol in time for the fall 1997 ground fish long line fisheries. This will allow NMFS to quantitatively assess the effectiveness of required seabird avoidance gear measures in reducing seabird bycatch based on observer data."

(10) Records as to actions NMFS or the Western Pacific Regional Fisheries Management Council have taken or plan to take to require seabird avoidance measures on longline fishing vessels in Hawaiian waters.

(11) Records related to any evaluations of the effectiveness of towing bird buoys or similar devices, night setting, Tori poles, bird scaring streamers, and weighted lines.

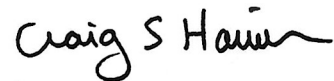
We hope that NMFS will promptly provide this information. President Clinton has directed agencies to make FOIA disclosure decisions based on a "commitment to openness." The President's Memorandum for Heads of Departments or Agencies (October 4, 1993) explained the commitment to openness requires more than merely responding to requests from the public. Each agency has a responsibility to distribute information on its own initiative, and to enhance public access.

Fees should be waived pursuant to 15 C.F.R. § 4.9 because PSG's purpose in requesting these records is to educate the public (including Congress and federal officials outside of NMFS) about NMFS' implementation of its natural resource trustee responsibilities pursuant to the Endangered Species Act, the Migratory Bird Treaty Act and the Magnuson Fisheries Management and Conservation Act. Since NMFS has assured the conservation community that reducing seabird mortality in the Hawaiian longline fisheries is a high priority, it is critical that we receive the requested information to assure public understanding of this issue and whether NMFS and the Western Pacific Regional Fisheries Management Council have acted to effectively protect seabirds.

Accordingly, this request is likely to contribute to an understanding of government operations or activities. PSG is a non-profit scientific and conservation organization and has no commercial interest in this matter.

Pursuant to 5 U.S.C. Sec. 552(a)(6)(A), we request a response within 20 days (excepting Saturdays, Sundays and federal holidays) after receipt of this request. Please contact me at 202-778-2240 or [charrison@hunton.com](mailto:charrison@hunton.com) if you have any questions regarding these requests.

Very truly yours,

A handwritten signature in black ink that reads "Craig S. Harrison". The signature is written in a cursive style with a prominent flourish at the end of the name.

Craig S. Harrison