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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

April 27, 2009

William L. Robinson
Pacific Islands Regional Administrator
National Marine Fisheries Service
1601 Kapiolani Boulevard, Suite 1110
Honolulu, HI 96814

Subject: Final Supplemental Environmental Impact Statement (FSEIS) for Amendment 18 to the Fishery Management Plan, Pelagic Fisheries of the Western Pacific Region, Management Modifications for the Hawaii-based Shallow-set Longline Swordfish Fishery, Proposal to Remove Effort Limits, Eliminate the Set Certificate Program and Implement New Sea Turtle Interaction Caps (CEQ # 20090103)

Dear Mr. Robinson:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA reviewed the Draft Supplemental Environmental Impact Statement (DSEIS) and provided comments to the National Marine Fisheries Service (NMFS) on September 26, 2008. We rated the DEIS as Environmental Concerns - Insufficient Information (EC-2) because of concerns regarding proposed increases in take of threatened and endangered sea turtles without a clear understanding of current sea turtle population trends, and urged caution in decisions that allow for additional mortality of species with such substantial cumulative risk. We also requested additional information regarding the impact assessment methodology and how cumulative impacts to sea turtles, including those associated with global climate change, were factored into the document's conclusions.

The preferred alternative in the DSEIS included the proposal to increase sea turtle interaction hard caps from 17 to 46 for loggerhead sea turtles, and from 16 to 19 for leatherbacks. Subsequent to release of the DSEIS, NMFS released its Biological Opinion, which authorized no more than 16 leatherback interactions; therefore, the preferred alternative in the FSEIS was changed to preserve the leatherback cap at 16, while increasing the loggerhead hard cap to 46.

EPA appreciates the additional information added to the FSEIS that clarifies the impact assessment methodology assumptions and limitations. The Biological Opinion concludes that there is insufficient information to determine the global status and trend of loggerhead sea turtles, and the FSEIS identifies potentially significant impacts that could occur, and already may

be occurring, to sea turtles from global climate change. The FSEIS also indicates uncertainty as to whether the Western Pacific Regional Fishery Management Council's sea turtle conservation projects, which have been successful and deemed important to sea turtle conservation and recovery, will continue to be funded (Appendix VII, p. 7). We note, however, that the proposed action includes 100% observer coverage aboard shallow-set longline vessels, and expanding the fishery may produce a beneficial market transfer effect[1]. EPA has no objections to the proposed action; however, we recommend that commitments to all conservation recommendations in the Biological Opinion be included in the Record of Decision (ROD). These recommendations include supporting long-term sea turtle conservation and recovery programs, and conducting a study of the market transfer effect on sea turtles as a result of the proposed action.

We appreciate the opportunity to review this FSEIS. If you have any questions, please contact me at (415) 972-3821, or contact Karen Vitulano, the lead reviewer for this project, at 415-947-4178 or vitulano.karen@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office (CED-2)

cc: Kitty M. Simonds, Executive Director, Western Pacific Regional Fishery Management Council

[1] The expansion of the Hawaii-based fishery may cause a reduction in effort in less turtle-friendly swordfish fisheries, thereby decreasing the overall sea turtle bycatch.