

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director

DATE: September 17, 1997

SUBJECT: Observer Program

ESTIMATED TIME  
3 HOURS

**ACTION REQUIRED**

Review progress on development of third party (JPA) program.

**BACKGROUND**

In June, after further researching the 'third party', modified pay-as-you-go observer program alternative, NMFS recommended, and the Council concurred, that further efforts be directed at developing such a program with the Pacific States Marine Fisheries Commission (PSMFC) as the third party entity. At that meeting you also took action to keep the existing observer program structure in place through 1998 to allow time to develop the third party program. Recall that this would establish the PSMFC as the interface between vessels/plants and the observer contracting companies, and industry would now go to, and pay, the PSMFC for their observers. For your reference, Item C-7(a) summarizes the issues leading to development of this alternative and lays out the goals and objectives of the third party arrangement.

NMFS will enter into a joint partnership agreement (JPA) with the PSMFC to bring this program on line - PSMFC will in turn contract with independent observer contracting companies to provide observers to the fleet - the fleet will go to the PSMFC to pay for and receive their observer coverage. Within this basic structure there are several potential variations in the respective roles of the PSMFC and the observer contracting companies. Item C-7(b), prepared by PSMFC and NMFS, summarizes the optional structures and the projected costs associated with each. This attachment contains three separate sections: (1) Summary of optional JPA structures; (2) Review of overall costs, and relative costs, associated with each JPA option; and, (3) A summary of the assignment of work options (options for determining distribution of work among the observer contracting companies). Item C-7(c), is an overall comparison of the options, measured against 8 major goals and objectives.

The Council's Observer Advisory Committee (OAC) met earlier this month to review these same materials and their report is provided as Item C-7(d). As you will see from their report, the OAC did not make any final recommendations as to a specific JPA structure at this time; rather, they identified several issues for further resolution and recommend that NMFS and PSMFC continue development of the third party, JPA arrangement, with the expectation for another review later this fall, after the PSMFC and NMFS have further defined the details of the JPA structure(s). Under this schedule, we would bring another iteration to the Council in December with additional detail on the JPA specifics. We would also in December bring to the Council a regulatory amendment package (EA/RIR) to provide the generic framework for a third party program. This would be for initial review, with final action in February, which should dovetail with finalization of the more specific JPA details. Based on this schedule, the third party program would be up and running at the start of 1999.

As you will see reflected in the OAC report, there are a few overriding issues for which Council direction would be helpful to PSMFC and NMFS at this time - in deciding which JPA structure to focus on, a basic issue involves the relative roles of the PSMFC and the observer contractors; i.e, which activities should be retained by the contractors and which should revert to the PSMFC. Regardless of the basic JPA structure adopted, a critical question remains 'how should the work be divided among the existing (and potentially new) observer contractors?' This could be determined on a fully competitive basis each year, or it could be determined based on historical 'market share', or on some combination of the two. This decision involves trade-offs between competition (and to some extent cost) and the need for the agencies to ensure that they can provide the necessary observers to industry. A competitive based allocation will be the likely result (barring Council direction otherwise) with the knowledge that such a system will provide no guarantees that all bidders (contractors) will receive a piece of the action.

An additional item in your notebooks, Item C-7(e), is an updated analysis by NMFS titled 'Groundfish Observer Costs by Sector'. This relates to the issue of disproportionately high observer costs (as a percentage of gross revenue) paid by some vessels in the fisheries. The OAC did not have time to review this document, nor has this issue been resolved within the current JPA options being developed. It has been highlighted as an issue of concern to the Council under any observer program structure.

With that background, PSMFC staff will now walk through the JPA options, and cost projections, followed by the OAC report.

Item C-7(f) is an article from the September 17, 1997 *Anchorage Daily News* regarding the observer unionization effort.

THIRD PARTY PROCUREMENT SYSTEM FOR OBSERVER SERVICES NECESSARY TO  
MEET REQUIRED OBSERVER COVERAGE REQUIREMENTS ESTABLISHED  
FOR THE ALASKA GROUND FISH FISHERIES

Background: NMFS maintains an observer program for collecting data required for managing groundfish fisheries in the EEZ off Alaska. Even though certified contractors are responsible for assuring that NMFS data integrity standards are met, they also have direct responsibilities to the fishing companies with whom they contract to provide observers. Owners of fishing vessels and processors make arrangements with certified contractors of their choice to meet observer requirements and pay contractors directly for providing observers. Thus, contractors and observers are employed directly by vessel and plant owners even though they are responsible to NMFS for collecting data according to agency standards. Under this arrangement opportunities arise for owners and operators to influence the work performance of the observers and the quality of the data collected. Since objectivity and independence are fundamental to the effectiveness of the Observer Program, the potential for conflict of interest that arises through these business relationships is of serious concern. In addition, the process of negotiation among vessel and plant owners and observer contractors provides a mechanism for controlling overall observer costs through competition. Unfortunately, pressure on contractors to reduce costs and remain competitive has impacted observer compensation negatively. In general, base salary rates are low, and compensation for time spent in training, briefing, debriefing, and transit has been reduced. This situation has undermined observer morale and influenced work performance such that NMFS and PSMFC is concerned about data integrity.

Joint partnership agreement: To respond to the above concerns, the North Pacific Fishery Management Council has requested that NMFS develop an alternative observer program infrastructure that would better ensure the collection of quality observer data by relying on a third party organization to provide procurement services for required observer coverage. NMFS and the Pacific States Marine Fisheries Commission are jointly developing the concept of the third party arrangement through a joint partnership agreement (JPA). Goals and objectives of the JPA are identified as follows:

**Goal:** Collect quality observer data necessary for the management and conservation of North Pacific fishery resources.

Objectives: Develop a JPA between NMFS and PSMFC under which PSMFC would arrange for industry observer services and collect fees from vessel and processor owners to:

1. Eliminate concerns about conflict of interest when fishing companies enter into private negotiations

- with observer companies.
2. Provide adequate compensation to observers for services rendered.
  3. Meet industry demands for observer services.
  4. Retain quality observers within the program.
  5. Maintain a cost effective infrastructure for providing observer services to industry.
  6. Improve the working relationship between NMFS and NMFS-certified observers.
  7. Provide assurance that observer coverage needs could be met in the event the JPA is discontinued due to unanticipated events.
  8. Provide the ability to implement an alternative procurement program for observer services no later than January 1999.

The use of a JPA, or memorandum of understanding, between NMFS and PSMFC to jointly work towards the above goal and objectives is predicated on a mutual interest of the two organizations to collect quality observer data.

NMFS is delegated the responsibility under the Magnuson-Stevens Fishery Conservation and Management Act (M-S Act), as amended, (16 U.S.C. § 1801 et seq.) to take the necessary measures to conserve and manage the fishery resources found off the coasts of the U.S. by establishing fishery conservation zones within which the U.S. would assume exclusive fishery management authority. The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the U.S. The M-S Act provides further that a fishery management plan could require that observers be carried on board certain domestic fishing vessels for the purpose of collecting data for the conservation and management of the fishery.

PSMFC was established by Congress to coordinate state policies and practices concerning fishing in the Pacific Ocean. (Pub. L. No. 80-232, 61 Stat. 419 (1947)). The collection of reliable data is essential to PSMFC to fulfill its primary role to promote policies and actions directed at the conservation, development and management of fishery resources of mutual concern to the Pacific states through a coordinated regional approach to research, monitoring and utilization.

Both parties have a mutual interest in reliable data and agree that the integrity of the data collected under the current North Pacific Groundfish Observer Program is constrained and that the current procurement process creates a potential for conflict of interest when fishing companies enter into private negotiations with observer companies. Quality observer data is necessary for both parties to fulfill their respective statutory functions and therefore, have agreed to work towards a JPA under which PSMFC would act as an intermediary and arrange for observers and collect fees from vessel owners to eliminate the above concerns

and problems. Furthermore, section 402(d) of the M-S Act recognizes the role of PSMFC in the collection of information and provides the authority to enter into agreements between NMFS and PSMFC for the collection of this information on a sole-source basis.

Documents are attached that describe and assess options for the JPA between NMFS and PSMFC as authorized under 16 U.S.C. § 1853 and 15 U.S.C. § 1525.

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**JPA OPTION 1**

**Description (Level of PSMFC Involvement):**

PSMFC would provide only the "arms length" relationship between vessels and observer contractors. Vessels with a prior history of participation in the fisheries would be pre-assigned to an observer contractor in advance of the season based on previous fishery participation records. Vessels without such a history would contact PSMFC (at whatever time of the year they decided to participate) and be assigned to an observer contractor for the rest of the year. In either case, PSMFC would establish a contract with the vessel to provide observer services. Assignments/contracts would be for a set length of time, presumably about one year.

Vessels would coordinate directly with observer contractors to arrange for deployments. Before any deployment took place, however, the observer contractor would be required to notify PSMFC of the impending deployment and the vessel would be required to contact PSMFC to arrange for a payment guarantee. Once a payment guarantee is established, PSMFC would notify the observer contractor to proceed with the deployment.

The observer contractor would bill PSMFC for travel costs associated with the deployment and for deployed observer days, and PSMFC would deduct those expenses from the payment guarantee and pay the observer contractor.

**PSMFC Costs:**

- project manager --- liaison between vessels, contractors, NMFS, and NPFMC (1 person)
- bookkeeper/accounts payable (1 person)
- travel to NPFMC and OAC meetings plus per diem
- telephone/FAX
- office rent
- office supplies and postage
- computers and office furniture
- banking fees and wire transfers
- accounting and audit costs
- liability insurance

**PSMFC Fees:**

- direct costs for PSMFC employees, travel, office supplies, telephone/FAX, and rent, plus 15% overhead on direct costs.
- 2 % overhead on funds passed through to observer contractors to cover banking fees, accounting and audit costs, and liability insurance.

**PRO**

- Utilizes existing observer contractor structure
- lowest PSMFC cost add-on
- Could be implemented relatively quickly
- Provides stable environment for contractors
- Could be dropped at a later date and still leave the existing contractor structure intact
- Guarantees payment to observers and

**CON**

- Numerous contacts needed to deploy each observer
- Mechanism needed to decide which contractor is assigned to a vessel. See Assignment of Work Options.
- Does not consolidate any duplications in the current system (port coordinators, etc.)
- Contractors limited to deploying only their

**JPA OPTION 1**

observer contractors

own observers, and will not be able to take advantage of the broadest possible option pool.

- Transportation costs (especially for 30% boats) could increase if contractors do not efficiently share observers between vessels. (Note: A maximum on billable travel per vessel quarter could be set to encourage efficiency.)
- Vessels will be required to give more advance notice than they may now provide prior to a deployment.
- NMFS needs to develop management structure to ensure vessel compliance. Waivers of observer requirements must be rare.

## JPA OPTION 2

### **Description (Level of PSMFC Involvement):**

PSMFC would provide the same "arms length" relationship as in Option 1, but add an additional level of coordinating support services: e.g., port coordinators (Dutch Harbor and Kodiak), and a blanket travel package that takes advantage of volume to obtain reduced air fares. As in Option 1, PSMFC would contract with vessels for observer services. Vessels with a prior history of participation in the fisheries would be pre-assigned to an observer contractor in advance of the season based on previous fishery participation records while vessels without such a history would contact PSMFC (at whatever time of the year they decided to participate) and be assigned to an observer contractor for the rest of the year. Assignments or contracts would be for a set length of time, presumably about one year.

Vessels would coordinate directly with observer contractors to arrange for deployments. Before any deployment took place, however, the observer contractor would be required to notify PSMFC of the impending deployment and the vessel would be required to contact PSMFC to arrange for a payment guarantee. Once a payment guarantee is established, PSMFC would notify the observer contractor to proceed with the deployment. The observer contractor would make travel arrangements through a PSMFC contract travel agent at PSMFC negotiated rates. Travel costs would be billed directly to PSMFC, and paid from the vessel advance. If the deployment (or return from deployment) occurred through a port at which a PSMFC coordinator was based, the observers would report to the PSMFC coordinator upon arrival. The coordinator would be the principal contact to ensure communications between vessels, observers, and observer contractors in the field.

The observer contractor would bill PSMFC for deployed observer days, and PSMFC would deduct those expenses from the payment guarantee and pay the observer contractor.

### **PSMFC Costs:**

- project manager --- liaison between vessels, contractors, NMFS, and NPFMC (1 person)
- bookkeeper/accounts payable (1 person)
- port coordinator in Dutch Harbor (1 person)
- port coordinator in Kodiak (1 person)
- travel to NPFMC and OAC meetings plus per diem
- travel to Dutch Harbor and Kodiak plus per diem
- telephone/FAX
- office rent
- office supplies and postage
- computers and office furniture
- field office rent, maintenance, utilities, and vehicle
- banking fees and wire transfers
- accounting and audit costs
- liability insurance

### **PSMFC Fees:**

- direct costs for PSMFC employees, travel, office supplies, telephone/FAX, rents, and field office expenses, plus 15% overhead on direct costs.



**JPA OPTION 2**

- 2 % overhead on funds passed through to observer contractors to cover banking fees, audit costs, and liability insurance.

**PRO**

- Provides greater efficiency in coordinating observer deployments. Port coordinator could adjust assignments as needed within those contracts assigned a particular observer contractor.
- Increased efficiency would not add substantial costs to vessels, since some existing observer contractor positions would be consolidated. Since not all contractors currently have port coordinators, service to some vessels should be enhanced.
- All travel would be at economical rates negotiated by PSMFC and based on the volume of the entire program.
- Leaves most of the existing contractor infrastructure intact. If the program is terminated at a later date, the existing contractor structure could probably be recovered quickly.
- Guarantees payment to observers and observer contractors

**CON**

- Potential confusion caused by 2 entities (PSMFC and contractor) directing or involved in deployments.
- Potential confusion for vessel on appropriate contact point (observer contractor vs. PSMFC port coordinator)
- Mechanism needed to assign vessels to contractors. See Assignment of Work Options.
- Transportation costs (especially for 30% boats) could increase if contractors do not efficiently share observers between vessels. (Note: A maximum on billable travel per vessel quarter could be set to encourage efficiency.)
- Contractors limited to deploying only their own observers, and cannot take advantage of entire observer pool to maximize efficiency of all deployments
- Vessels will be required to give more advance notice than they may now provide prior to a deployment.
- NMFS needs to develop management structure to ensure vessel compliance. Waivers of observer requirements must be rare.

**JPA OPTION 3**

**Description (Level of PSMFC Involvement):**

PSMFC assumes responsibility for all deployment and coordination tasks. Observer contractors just provide observers. As in Options 1 and 2, PSMFC would contract with vessels for observer services. PSMFC would also contract with observer contractors to provide a specified number of observer days throughout the year.

Vessels would contact and coordinate with PSMFC to arrange for deployment and payment guarantee. Once a payment guarantee is established, PSMFC would proceed with the deployment. Travel arrangements would be made through a PSMFC contract travel agent at PSMFC negotiated rates. Travel costs would be billed directly to PSMFC, and paid from the vessel advance. If the deployment (or return from deployment) occurred through a port at which a PSMFC coordinator was based, the observers would report to the PSMFC coordinator upon arrival. The coordinator would be the principal contact to ensure field communications between vessels, observers, and observer contractors.

PSMFC would pay the observer contractor from the payment guarantee based on the number of observer days used during the deployment.

**PSMFC Costs:**

- project manager --- liaison between vessels, contractors, NMFS, and NPFMC (1 person)
- bookkeeper/accounts payable (1 person)
- deployment coordinators (2 persons)
- port coordinator in Dutch Harbor (1 person)
- port coordinator in Kodiak (1 person - possibly seasonal)
- travel to NPFMC and OAC meetings plus per diem
- travel to Dutch Harbor plus per diem
- telephone/FAX
- office rent
- office supplies and postage
- computers and office furniture
- field office rent, maintenance, utilities, and vehicle
- banking fees and wire transfers
- accounting and audit costs
- liability insurance

**PSMFC Fees:**

- direct costs for PSMFC employees, travel, office supplies, telephone/FAX, rents, and field office expenses, plus 15% overhead on direct costs.
- 2 % overhead on funds passed through to observer contractors to cover banking fees, audit costs, and liability insurance.

<b>PRO</b>	<b>CON</b>
<ul style="list-style-type: none"> <li>• Consolidates most duplicative positions among contractors. Should result in lowest costs of the three JPA options.</li> <li>• Provides greatest efficiency in coordinating</li> </ul>	<ul style="list-style-type: none"> <li>• Confusion likely in first year of implementation</li> <li>• Existing contractor infrastructure disappears. Problematic if NPFMC decides</li> </ul>

### JPA OPTION 3

observer deployments. Port coordinator could adjust assignments without regard to observer contractor vessel assignments.

- Could maximize deployed time for observers
- Provides a single contact point for vessels
- Do not need a mechanism for assigning vessels to contractors
- Closer working relationship with NMFS and observers will allow tighter program control.

to return to the present system

- Need a mechanism for dividing available work among the contractors. See Assignment of Work Options.
- Vessels will be required to give more prior notice of fishing plans than they do at the present time.
- NMFS needs to develop management structure to ensure vessel compliance. Waivers of observer requirements must be rare.

The information used to develop the following cost estimate (Table 1) was drawn from a variety of sources, including NMFS observer program data bases, common carrier air fare rates, and information provided by observer contractors during interviews with them. Two contractors also provided detailed profit and loss balance sheets for their operations. From this information, projected balance sheets for all five existing observer contractors were developed. Overall program cost estimates were generated as the average for the five contractors, weighted by the number of observed days provided by each contractor. For the "Current Observer Salary Rate" scenario, actual data regarding observer compensation and field support were used whenever possible, and default values or estimates were used only when no other information was available. For the "GS5-based Observer Salary Rate" scenario, observer compensation practices were modified to reflect those shown in Table 5, while other support and indirect cost assumptions were held constant. To examine the impacts of each JPA option, direct and indirect expense elements of contractor balance sheets were reduced, eliminated, or transferred to PSMFC, while PSMFC direct costs were added (Tables 2 - 4).

The observer program maintains a record of all observers who were trained/briefed and subsequently deployed. These data were used to provide profiles of observer experience during recent years based on numbers of prior cruises (Table 6). The most recent 3-year average profile was used to represent the current observer pool in order to develop a graduated average observer salary, and to determine the current average training requirements. This profile is intended only as a reflection of current conditions, and may not represent future program goals.

The haul-by-haul observer reports provide a daily record of observer activity during a NMFS-defined cruise (i.e., the period between an observer's briefing and subsequent debriefing). The difference in days between the observer's first and last recorded haul reports is generally equivalent to the number of days the observer was at sea during a deployment or cruise. For purposes of this analysis, this record was used as the number of "observed days", and was used to generate overall estimates for "Observer Salaries" and as the basis for "Cost per Observed Day" estimates. During 1995 and 1996, there were an average of 548 individual observer cruises with an average total of 31,297 observed days during each year.

The estimate of salary for "Observed Days" does not include all of the days for which the observer could have received compensation. Estimates for observer compensation for time spent during briefing, debriefing, and transit to and from the vessel were included under "Deployment Costs". For this analysis, the following default values were used: (a) 20% of observers were estimated to require a 4-day briefing, while the remaining 80% were estimated to require a 2-day briefing, making an average of 2.4 days spent during briefing for all experienced observers; (b) data from the 1995 Observer Program (provided in the 1996 draft Statement of Work) suggested that the average length of a debriefing was 4.68 days (Table 7); and (c) an estimated total of four days was provided for observer travel from the point of origin to the vessel, for residence on the vessel until the first recorded "haul day", and for travel from the vessel after the last recorded "haul day" to the point of debriefing. Not all contractors compensate this time equally; under the "Current Observer Salary Rate" scenario, values reflected those differences to the extent which they could be determined. Deployment Costs also included estimates for observer per diem and lodging during deployment. Observers who were designated as "new" (i.e., with no prior cruises)

were assumed to require a 3-week training period in lieu of briefing. Estimates for observer compensation, lodging and medical expenses during this training period were included in the "Other Direct Costs" category.

The contractor direct expense category for "Payroll Taxes and Insurance" includes estimates for Social Security, Workers Compensation, Unemployment, and CGL based on estimated observer salaries, deployment compensation, and training compensation. Estimates for similar taxes on shore-based administrative staff salaries were included in the "Indirect Contractor Costs" category. Tax rates, particularly Workers Compensation, for shore-based personnel are substantially lower than for workers whose primary duties are at sea.

Estimates for all other contractor costs are combined under the category "Indirect Contractor Costs". These include contractor administrative employee compensation and payroll taxes, other taxes, professional services, rents, utilities, maintenance, allowances for bad debt, and profit.

Travel cost estimates (Table 8) were based on current common carrier airfare rates, presuming round-trip travel from Seattle to the point of departure. Departure locations were based on Observer Program records of the declarations made by observers during training or briefing regarding their likely port of departure. Points of departure may change on short notice and these declarations are not verified for accuracy, but they represent the best source of available information on observer departure points and travel patterns. Approximately 17% of observers did not declare or did not know their point of departure; Dutch Harbor was the presumed point of departure in those cases because the monthly pattern of deployments was similar. "Fish Fares" are special air fare rates designed for the fishing industry which allow travel from Seattle to specified destinations at the 14-day advance fare rate, regardless of when the ticket was purchased. Since most contractors make use of "Fish Fares" when they are available, these rates were used where appropriate. These travel cost projections probably represent minimum estimates, since they only consider travel from Seattle to the first point of departure. While approximately 43% of observer cruises in 1995 and 1996 involved a single vessel, the remainder involved work onboard more than one vessel (23% on 2 vessels; 14% on 3 vessels; 11% on 4 vessels; 9% on 5 or more vessels). Any air travel costs associated with mid-cruise movements of observers between vessels are not reflected in these estimates.

JPA OPTIONS SUMMARY

Table 1. Costs Per Deployed Observer Day

CURRENT OBSERVER SALARY RATE			GS5 BASED OBSERVER SALARY RATE		
<b>Status Quo</b>			<b>Status Quo</b>		
<b>Direct Contractor Costs</b>			<b>Direct Contractor Costs</b>		
Observer Salaries	\$94	43%	Observer Salaries	\$156	48%
Payroll Taxes & Insurance	\$30	14%	Payroll Taxes & Insurance	\$59	18%
Deployment Costs	\$17	8%	Deployment Costs	\$22	7%
Other Direct Costs	\$6	3%	Other Direct Costs	\$12	4%
Subtotal Contractor Direct Costs	\$147	68%	Subtotal Contractor Direct Costs	\$249	77%
Indirect Contractor Costs	\$45	21%	Indirect Contractor Costs	\$50	16%
Travel Costs	\$23	11%	Travel Costs	\$23	7%
<b>PSMFC Costs</b>			<b>PSMFC Costs</b>		
Direct Costs	\$0	0%	Direct Costs	\$0	0%
Direct Cost Overhead	\$0	0%	Direct Cost Overhead	\$0	0%
Indirect Cost Overhead	\$0	0%	Indirect Cost Overhead	\$0	0%
Total PSMFC Costs	\$0	0%	Total PSMFC Costs	\$0	0%
<b>Total Cost Per Observer Day</b>	<b>\$216</b>		<b>Total Cost Per Observer Day</b>	<b>\$322</b>	
<b>JPA Option 1</b>			<b>JPA Option 1</b>		
<b>Direct Contractor Costs</b>			<b>Direct Contractor Costs</b>		
Observer Salaries	\$94	42%	Observer Salaries	\$156	48%
Payroll Taxes & Insurance	\$30	14%	Payroll Taxes & Insurance	\$59	18%
Deployment Costs	\$17	8%	Deployment Costs	\$22	7%
Other Direct Costs	\$6	3%	Other Direct Costs	\$12	4%
Subtotal Contractor Direct Costs	\$147	66%	Subtotal Contractor Direct Costs	\$249	76%
Indirect Contractor Costs	\$43	19%	Indirect Contractor Costs	\$47	14%
Travel Costs	\$23	10%	Travel Costs	\$23	7%
<b>PSMFC Costs</b>			<b>PSMFC Costs</b>		
Direct Costs	\$5	2%	Direct Costs	\$5	1%
Direct Cost Overhead	\$1	0%	Direct Cost Overhead	\$1	0%
Indirect Cost Overhead	\$4	2%	Indirect Cost Overhead	\$4	1%
Total PSMFC Costs	\$9	4%	Total PSMFC Costs	\$9	3%
<b>Total Cost Per Observer Day</b>	<b>\$223</b>		<b>Total Cost Per Observer Day</b>	<b>\$328</b>	
<b>JPA Option 2</b>			<b>JPA Option 2</b>		
<b>Direct Contractor Costs</b>			<b>Direct Contractor Costs</b>		
Observer Salaries	\$94	42%	Observer Salaries	\$156	47%
Payroll Taxes & Insurance	\$30	14%	Payroll Taxes & Insurance	\$59	18%
Deployment Costs	\$16	7%	Deployment Costs	\$21	6%
Other Direct Costs	\$6	3%	Other Direct Costs	\$12	4%
Subtotal Contractor Direct Costs	\$146	65%	Subtotal Contractor Direct Costs	\$248	75%
Indirect Contractor Costs	\$38	17%	Indirect Contractor Costs	\$42	13%
Travel Costs	\$23	10%	Travel Costs	\$23	7%
<b>PSMFC Costs</b>			<b>PSMFC Costs</b>		
Direct Costs	\$11	5%	Direct Costs	\$11	3%
Direct Cost Overhead	\$2	1%	Direct Cost Overhead	\$2	1%
Indirect Cost Overhead	\$4	2%	Indirect Cost Overhead	\$4	1%
Total PSMFC Costs	\$17	8%	Total PSMFC Costs	\$17	5%
<b>Total Cost Per Observer Day</b>	<b>\$224</b>		<b>Total Cost Per Observer Day</b>	<b>\$329</b>	

**JPA OPTIONS SUMMARY**

**Table 1. Costs Per Deployed Observer Day**

<b>CURRENT OBSERVER SALARY RATE</b>				<b>GS5 BASED OBSERVER SALARY RATE</b>			
<b>JPA Option 3</b>				<b>JPA Option 3</b>			
<b>Direct Contractor Costs</b>				<b>Direct Contractor Costs</b>			
Observer Salaries	\$94	43%		Observer Salaries	\$156	48%	
Payroll Taxes & Insurance	\$30	14%		Payroll Taxes & Insurance	\$59	18%	
Deployment Costs	\$16	7%		Deployment Costs	\$21	6%	
Other Direct Costs	\$6	3%		Other Direct Costs	\$12	4%	
Subtotal Contractor Direct Costs	\$146	67%		Subtotal Contractor Direct Costs	\$248	76%	
Indirect Contractor Costs	\$29	13%		Indirect Contractor Costs	\$33	10%	
Travel Costs	\$23	10%		Travel Costs	\$23	7%	
<b>PSMFC Costs</b>				<b>PSMFC Costs</b>			
Direct Costs	\$15	7%		Direct Costs	\$15	5%	
Direct Cost Overhead	\$2	1%		Direct Cost Overhead	\$2	1%	
Indirect Cost Overhead	\$4	2%		Indirect Cost Overhead	\$4	1%	
Total PSMFC Costs	\$21	10%		Total PSMFC Costs	\$21	6%	
<b>Total Cost Per Observer Day</b>	<b>\$219</b>			<b>Total Cost Per Observer Day</b>	<b>\$325</b>		

**NOTES:**

- Observer Salaries:** Includes observer compensation for days at sea during a deployment.
- Payroll Taxes and Insurance:** Includes Social Security, Workers Compensation, Unemployment, and CGL
- Deployment Costs:** Includes observer compensation during briefing, debriefing, and transit; and for observer per diem and lodging during deployment.
- Other Direct Costs:** Includes observer compensation, lodging and medical expenses during training.
- Indirect Contractor Costs:** Includes contractor administrative employee compensation and payroll taxes, other taxes, professional services, rents, utilities, maintenance, and profit.

PSMFC ASSUMPTIONS

Table 2. PSMFC Program Cost Assumptions

Personnel	Location	Range	Monthly Rate	Monthly Benefits	Monthly Salary
Project manager	Seattle / Portland	GS-13	\$4,511	\$1,669	\$6,180
Bookkeeper/accounts payable	Seattle / Portland	GS-10	\$2,881	\$1,066	\$3,947
Port coordinator	Dutch Harbor	GS-11	\$3,728	\$1,379	\$5,107
Port coordinator	Kodiak	GS-11	\$3,728	\$1,379	\$5,107
Deployment coordinator #1	Seattle / Portland	GS-11	\$3,165	\$1,171	\$4,336
Deployment coordinator #2	Seattle / Portland	GS-11	\$3,165	\$1,171	\$4,336

Travel	Rate
Airfares - Portland/Anchorage	\$680
Airfares - Portland/Dutch Harbor	\$1,444
Airfares - Portland/Kodiak	\$714
Per diem days - Anchorage	\$217

Telephone/FAX	Rate Basis	Rate
Local per line	Monthly	\$25.77
Long Distance WA	Minute	\$0.13
Long Distance AK	Minute	\$0.17
800 Number fee	Monthly	\$5.00

Rentals	Space per Office	Rate per Square Foot	Monthly Rate
Office rent - Gladstone	120	\$1.82	\$218.75
Seattle office rent			\$0.00
Field Office rent			\$1,800
Field Office vehicle rent			\$500

Supplies	Monthly Rate
Office supplies - unit cost per person per month	\$50
Postage - per month	\$300
Field office utilities	\$500
Field office maintenance	\$100

Equipment	Expected Life (mo.)	Base Price	Monthly Rate
Computers	36	\$2,000	\$56
Computer printer	36	\$800	\$22
Desk, chair, filing cabinet	60	\$2,000	\$33

PSMFC Direct Cost Overhead Rate	15%
PSMFC Indirect Cost Overhead Rate	2%

Banking fees	Covered by 2% fee on contractor payments
Accounting/audit	Covered by 2% fee on contractor payments
Liability insurance	Covered by 2% fee on contractor payments



PSMFC USAGE

Table 3. Projected Annual PSMFC Activity Levels

	Status Quo	Option 1	Option 2	Option 3
<b>Personnel Months</b>				
Project manager		12	12	12
Bookkeeper/accounts payable		12	12	12
Port coordinator - Dutch Harbor			12	12
Port coordinator - Kodiak			12	12
Deployment coordinator #1				12
Deployment coordinator #2				12
<b>Travel</b>				
Airfares - Portland/Anchorage	0	6	6	8
Airfares - Portland/Dutch Harbor	0	0	2	2
Airfares - Portland/Kodiak	0	0	2	2
Per diem days - Anchorage	0	18	20	26
<b>Telephone/FAX</b>				
Local lines - number needed	0	1	3	4
Long Distance WA minutes per month	0	400	400	800
Long Distance AK minutes per month	0	600	1400	3400
800 Number - number needed	0	0	0	1
<b>Rentals</b>				
Gladstone - number of office months	0	12	12	12
Seattle - number of office months	0	12	12	36
Field Office - number of office months	0	0	24	24
Field Office vehicle - number of vehicle months	0	0	24	24
<b>Supplies</b>				
Office supplies - number of units	0	2	4	6
Postage	0	1	1	1
Field office utilities - months	0	0	24	24
Field office maintenance - months	0	0	24	24
<b>Equipment</b>				
Computers - number needed	0	2	4	6
Computer printer	0	1	2	3
Desks, chairs, filing cabinets	0	2	4	6
PSMFC Direct Cost Overhead	0	1	1	1
PSMFC Indirect Cost Overhead				
Banking fees	0	1	1	1
Accounting/audit	0	1	1	1
Liability insurance	0	1	1	1

PSMFC DIRECT COST

Table 4. Projected Annual PSMFC Direct Costs

	Status			
	Quo	Option 1	Option 2	Option 3
<b>Personnel</b>				
Project manager	\$0	\$74,161	\$74,161	\$74,161
Bookkeeper/accounts payable	\$0	\$47,364	\$47,364	\$47,364
Port coordinator - Dutch Harbor	\$0	\$0	\$61,288	\$61,288
Port coordinator - Kodiak	\$0	\$0	\$61,288	\$61,288
Deployment coordinator #1	\$0	\$0	\$0	\$52,033
Deployment coordinator #2	\$0	\$0	\$0	\$52,033
<b>Travel</b>				
Airfares - Portland/Anchorage	\$0	\$4,080	\$4,080	\$5,440
Airfares - Portland/Dutch Harbor	\$0	\$0	\$2,888	\$2,888
Airfares - Portland/Kodiak	\$0	\$0	\$1,428	\$1,428
Per diem days - Anchorage	\$0	\$3,906	\$4,340	\$5,642
<b>Telephone/FAX</b>				
Local lines	\$0	\$309	\$928	\$1,237
Long Distance WA	\$0	\$612	\$612	\$1,224
Long Distance AK	\$0	\$1,224	\$2,856	\$6,936
800 Number	\$0	\$0	\$0	\$60
<b>Rentals</b>				
Office rent - Gladstone	\$0	\$2,625	\$2,625	\$2,625
Seattle office rent	\$0	\$0	\$0	\$0
Field Office rent	\$0	\$0	\$43,200	\$43,200
Field Office vehicle rent	\$0	\$0	\$12,000	\$12,000
<b>Supplies</b>				
Office supplies	\$0	\$1,200	\$2,400	\$3,600
Postage	\$0	\$3,600	\$3,600	\$3,600
Field office utilities	\$0	\$0	\$12,000	\$12,000
Field office maintenance	\$0	\$0	\$2,400	\$2,400
<b>Equipment</b>				
Computers	\$0	\$1,333	\$2,667	\$4,000
Computer printer	\$0	\$267	\$533	\$800
Desks, chairs, filing cabinets	\$0	\$800	\$1,600	\$2,400
Subtotal PSMFC Direct Costs	\$0	\$141,481	\$344,258	\$459,646
PSMFC Direct Cost Overhead	\$0	\$21,222	\$51,639	\$68,947
<b>Total PSMFC Direct &amp; Overhead Cost</b>	<b>\$0</b>	<b>\$162,703</b>	<b>\$395,897</b>	<b>\$528,593</b>

WAGES

Table 5. GS5-Based Observer Salary Schedule Assumptions

Observer Experience	Assumed Observer Profile	GS Ranking	Hourly Rate	Hourly Overtime Rate	Regular Week Daily Wage	Regular Week Wages	Regular Week Overtime Wages	Weekend Wages	Average Daily Wage Including Overtime
New	39%	GS5-1	\$9.96	\$14.94	\$79.68	\$398	\$299	\$359	\$150.82
1-2 Cruises	29%	GS5-2	\$10.29	\$15.44	\$82.32	\$412	\$309	\$370	\$155.82
2-5 Cruises	19%	GS5-3	\$10.62	\$15.93	\$84.96	\$425	\$319	\$382	\$160.82
>5 Cruises	14%	GS5-4	\$10.95	\$16.43	\$87.60	\$438	\$329	\$394	\$165.81
Weighted Average					\$82.52				\$156.19

Assumes:

1. Work week = 84 hours (12 hours x 7 days) during deployment
2. Overtime rate = 1.5 x regular hourly rate
3. Regular Week Wage = 40 hours (8 hours x 5 days x hourly regular rate)
4. Regular Week Overtime Wage = 20 hours (4 hours x 5 days x hourly overtime rate)
5. Weekend Wage = (12 hours x 2 days x hourly overtime rate)
6. In the GS5 scenario, observers are paid 12 hours per day while deployed (Average Daily Wage Including Overtime), and 8 hours per day during briefing, debriefing, transit and training (Regular Week Daily Wage).

**OBSERVER EXPERIENCE**

**Table 6. Observer Deployments by Levels of Experience**

<b>Year</b>	<b>1990</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>
<b>Percentage by Year</b>							
New	77%	52%	37%	24%	40%	40%	36%
1-2 Cruises	23%	40%	40%	35%	24%	32%	30%
2-5 Cruises	0%	9%	22%	32%	24%	14%	19%
>5 Cruises	0%	0%	2%	9%	12%	15%	15%
<b>Averages</b>							
	<b>7-Year</b>	<b>6-Year</b>	<b>5-Year</b>	<b>4-Year</b>	<b>3-Year</b>	<b>2-Year</b>	<b>Last Year</b>
New	44%	38%	36%	35%	39%	38%	36%
1-2 Cruises	32%	33%	32%	30%	29%	31%	30%
2-5 Cruises	17%	20%	22%	22%	19%	16%	19%
>5 Cruises	7%	9%	10%	13%	14%	15%	15%

The assumed observer experience profile used in related sheets is :

**3-Year**  
 39% New  
 29% 1-2 Cruises  
 19% 2-5 Cruises  
 14% >5 Cruises

<b>Number of Observed Days</b>	<b>1995</b>	<b>1996</b>	<b>Average</b>
	31,163	31,430	31,297

DEBRIEFING

**Table 7. Length of observer debriefings in 1995**  
(Based on April 1996 Draft SOW)

Days	Debriefings		Total Observer Days
	Dutch Harbor and Kodiak	Seattle	
1	8	114	122
2	1	43	88
3	6	69	225
4	0	31	124
5	3	38	205
6	1	61	372
7	3	53	392
8		46	368
9		17	153
10		11	110
11		7	77
12		5	60
13		2	26
14		3	42
15		4	60
16		1	16
17		0	0
18		2	36
<b>Total</b>	<b>22</b>	<b>507</b>	<b>2,476</b>

Average length (in days) of an observer debriefing = 4.68

AIR FARES

Table 8. Air fares from Anchorage and Seattle to selected points of observer departure. All fares are round trip, at corporate rates. Rates are those in effect 8/26/97.

Destination	Seattle to	Seattle to	Anchorage	Anchorage	Seattle to	Anchorage to
	Destination	Destination	to	to	Destination	Destination
	Regular	14-day	Destination	Destination	14-day	14-day
	Fare	Advance	Regular	Advance	Advance	Advance
		Fare	Fare	Fare	Discount	Discount
AKUTAN	\$2,084	\$1,008	\$1,020	\$870	-52%	-15%
COLD BAY	\$2,072	\$1,040	\$812	\$690	-50%	-15%
CORDOVA	\$1,420	\$594	\$276	\$172	-58%	-38%
DUTCH HARBOR	\$2,190	\$1,444	\$1,034	\$710	-34%	-31%
HOMER	\$1,394	\$648	\$364	\$134	-54%	-63%
KENAI	\$1,348	\$602	\$364	\$134	-55%	-63%
KETCHIKAN	\$656	\$396	\$620	\$442	-40%	-29%
KING COVE	\$1,976	\$1,145	\$932	\$810	-42%	-13%
KODIAK	\$1,460	\$714	\$458	\$275	-51%	-40%
PELICAN	\$978	\$459	\$664	\$520	-53%	-22%
PETERSBURG	\$736	\$426	\$596	\$418	-42%	-30%
PRINCE RUPERT	\$706	\$446	\$670	\$492	-37%	-27%
SAND PT	\$2,072	\$1,074	\$812	\$560	-48%	-31%
SEATTLE			\$1,260	\$514		-59%
SEWARD	\$1,398	\$652	\$288	\$138	-53%	-52%
SITKA	\$716	\$416	\$502	\$352	-42%	-30%
YAKUTAT	\$816	\$464	\$356	\$246	-43%	-31%

Port of Departure	Deployments			Total Estimated Travel Costs		
	1995	1996	FISH FARE?	1995	1996	Average
AKUTAN	18	6	Yes	\$18,144	\$6,048	\$12,096
COLD BAY	1	0	Yes	\$1,040	\$0	\$520
CORDOVA	3	0		\$4,260	\$0	\$2,130
DUTCH HARBOR	365	294	Yes	\$527,060	\$424,536	\$475,798
HOMER	1	3		\$1,394	\$4,182	\$2,788
KENAI	1	1		\$1,348	\$1,348	\$1,348
KETCHIKAN	0	1		\$0	\$656	\$328
KING COVE	5	9		\$9,880	\$17,784	\$13,832
KODIAK	80	52	Yes	\$57,120	\$37,128	\$47,124
PELICAN	2	0		\$1,956	\$0	\$978
PETERSBURG	0	2		\$0	\$1,472	\$736
PRINCE RUPERT	0	1		\$0	\$706	\$353
SAND POINT	9	3	Yes	\$9,666	\$3,222	\$6,444
SEATTLE	7	15		\$0	\$0	\$0
SEWARD	9	6		\$12,582	\$8,388	\$10,485
SITKA	3	3		\$2,148	\$2,148	\$2,148
YAKUTAT	3	2		\$2,448	\$1,632	\$2,040
UNKNOWN	2	1	Yes	\$2,888	\$1,444	\$2,166
Not Listed	54	135	Yes	\$77,976	\$194,940	\$136,458
<b>TOTAL</b>				<b>\$729,910</b>	<b>\$705,634</b>	<b>\$717,772</b>
Total Observed Days				31,163	31,430	31,297
Cost Per Observed Day				\$23.42	\$22.45	\$22.93

Assumes: All travel based on the Seattle to destination rate.  
 Unknown or Not Listed ports of departure used the Dutch Harbor rate.  
 Fish fares use 14-day advance rate; all other at regular fare rate

Competition has been an important determinant of market share, efficiency, and service for North Pacific observer contractors. Since vessels are free to choose which contractor provides their observer coverage, contractors have been strongly motivated to minimize their operating costs, and to make extraordinary efforts to accommodate the operational needs of their vessel clients. Their ability to accomplish this ultimately influences their market share. With the injection of a third party into the process, many of these incentives are removed. Vessels are no longer free to change observer contractors at will and the third party guarantees payment, so there may be limited incentives to encourage efficiency. All JPA options must face the challenge of assigning market share to existing (or future) contractors, without destroying the efficiencies that have developed under the current system. The following options are among those that could be considered:

<b>ASSIGNMENT OF WORK OPTION 1</b>	
<p><b>Description:</b>            PSMFC could assign projected business annually based solely on past levels of observer days provided by each of the existing observer contractors in a base year (or average of years). Since there would be no competition between contractors, PSMFC would establish the base price per observer day based on established observer compensation levels and a fixed allowance for contractor overhead and profit combined. Observer contractors would be free to maximize profit (within the limits of the allowance) by achieving efficiencies in operations and overhead costs.</p>	
<p style="text-align: center;"><b>PRO</b></p> <ul style="list-style-type: none"> <li>• Simplest system to administer</li> <li>• Vessels receive assurance of observer coverage at a specified rate, and all vessels pay the same daily rate for observer coverage.</li> <li>• Contractors are assured a level of business to recover fixed costs</li> </ul>	<p style="text-align: center;"><b>CON</b></p> <ul style="list-style-type: none"> <li>• Lack of competition may breed complacency on the part of contractors, and levels of service may suffer. Since contractors will not competitively bid against each other, a vessel cannot go anywhere else, and payment is guaranteed, a contractor has little incentive to minimize costs or go to extraordinary lengths to accommodate a vessel.</li> <li>• Rates authorized by PSMFC may be higher than those possible with competition.</li> <li>• Difficult to allow participation by new contractors.</li> <li>• Difficult to accommodate existing contractors who wish to increase their current market share.</li> </ul>

## ASSIGNMENT OF WORK OPTION 2

**Description:**

PSMFC could divide the annual projected business in observer days into an assigned segment and a competitive segment. For example, 60% of annual business could be assigned based on levels of observer days provided during the previous year by each observer contractor, with the remaining 40% of the year based on competitive bid. The proportions assigned to each contractor in successive years would be based on the overall proportion of business (assigned plus competitive) provided during the previous year. PSMFC would establish the base price during the assigned segment of the year, based on established observer compensation levels and an allowance for contractor overhead and profit. Bids in the competitive segment could also serve as a guide for setting the base price in successive years.

**PRO**

- During the assigned portions of the year, vessels receive assurance of observer coverage at a specified rate, and all vessels pay the same daily rate for observer coverage.
- During the competitive portions of the year, observer rates will probably be lower, as observer contractors will have met their fixed costs and seek to maintain or increase future market share.
- Contractors are assured a portion of their business to recover fixed costs

**CON**

- More administratively complex than Option 1. Bidding process will increase FAX and telephone costs.
- PSMFC must still determine rates during the assigned portion of the year, and rates authorized by PSMFC may be higher than those possible with competition.
- New contractor participants will be relegated to participation only during the competitive portions of the year.
- New contractors may have performance problems in the start-up phase, increasing uncertainty in the entire program.
- Selection of suitable assigned and competitive portions of the year will be complicated, since some vessels may participate in assigned and competitive portions sequentially. Contracts with vessels and relationships with contractors will be limited to one portion of the year, and the contractor providing coverage could change several times throughout the year. That schedule may not meet the coverage needs of some vessels.
- Vessels fishing side-by-side in the competitive segment of the season may pay different rates for observer coverage.



### ASSIGNMENT OF WORK OPTION 3

**Description:**

PSMFC would assign all business to observer contractors based on competitive bidding, and no contractor would be assured a segment of the business. Vessels would contact PSMFC to arrange observer coverage for any period up to a year in length, and PSMFC would request bids for this coverage on a request-by-request (task order) basis. Several vessels could be grouped into a bid package or modules if there was justification to do so. Contractors would be free to bid on as many (or as few) contracts as desired.

**PRO**

- Over the long term, competition should insure efficiency and economy
- Arbitrary assignment of market share and pricing by PSMFC would be unnecessary
- Prices later in the season should be lower, as contractors are assured of meeting fixed costs.
- New contractors would be free to enter the market as they were competitively able to do so.

**CON**

- Most administratively complex of the work assignment options.
- Observer contractors would be unable to plan for fixed costs, or plan investment in new observer training.
- Prices in the beginning of the season will probably be higher as contractors build fixed costs into bids.
- Vessels fishing side-by-side may pay different rates for observer coverage.
- Vessels would not have advance assurance that observer costs were as low as possible. Some might choose to make only short term commitments, hoping to get lower prices later. This could increase the amount of bidding needed.
- New contractors may have performance problems in the start-up phase, increasing uncertainty in the entire program.

Relative comparison of alternatives and options for procurement of observer services. A rating of '0' indicates an alternative or option does not address a specified criteria, a rating of '5' indicates the criteria is fully addressed.

Criteria	Status quo		JPA			PBO <sup>a</sup>
	current salary (\$94/day)	assumed salary increase (\$156/day)	Opt. 1	Opt. 2	Opt. 3	
1	0	2	3	3	4	5
2	0	4 <sup>b</sup>	5	5	5	5
3 <sup>c</sup>	4	4	4	4	4	4
4	2	3	4	4	4	5
5 <sup>d</sup>	5	5	3	3	4	4
6	3	3	3	4	4	5
7	n/a	n/a	5	4	3	n/a
8	n/a	n/a	5	4	4	0 <sup>e</sup>

Criteria

1. Eliminate concerns about conflict of interest when fishing companies enter into private negotiations with observer companies or observers.
2. Provide adequate compensation to observers for services rendered.
3. Meet industry demands for observer services.
4. Retain quality observers within the program.
5. Maintain a cost effective infrastructure for providing observer services to industry.
6. Improve working relationship between NMFS and NMFS-certified observers.
7. Provide assurance that observer coverage needs could be met in the event the JPA is discontinued due to unanticipated events.
8. Provide the ability to implement an alternative procurement program for observer services no later than January 1999.

a. For purposes of comparison, a federal performance-based organization that directly hires observers and manages the deployment and evaluation of observers would provide the best possible observer program from the perspective of ensuring data integrity and quality.

b. Increased salary under status quo may not occur for non union companies.

c. Guarantee of meeting industry demand not assured under current program if a vessel delays making arrangements or NMFS unexpectedly opens a fishery for a short period of time.

d. Cost effective from whose perspective? Industry (stay with status quo)? PSEFMC? NMFS? I assumed industry perspective (i.e., under which option do they pay the least?) and used Al's relative total cost/day estimates.

e. Would require statute authority and significant FTE increase, both of which are unlikely by 1999.

## OBSERVER ADVISORY COMMITTEE

### Report to the Council on the Third Party/JPA Observer Program Structure [September 8, 1997]

Members present: Chris Blackburn, Michael Lake, Kim Dietrich, Teresa Turk, Paula Cullenburg, Mandy Merklein, Lauri Bowen, Nancy Munro, Arni Thompson, Paul MacGregor, Don Goodfellow

Staff: Chris Oliver (NPFMC), Bill Karp, Shannon Fitzgerald, Sue Salvesson, Martin Loefflad, Sarah Gaichas (NMFS), Al Didier, Dave Hanson (PSMFC), Larry Boyle (ADF&G)

Others: Jerry Rubin, Mark Coles, Jill Bowman

#### Overview

The OAC received reports from NMFS and the PSMFC regarding progress on the Joint Partnership Agreement (JPA) structure for the observer program. The reports included: (1) summary and comparison of 3 optional JPA structures; (2) Summary and comparison of costs associated with each JPA option, and comparison under two observer salary scenarios; (3) overall rating of each JPA option relative to program goals and objectives; and, (4) discussion of options for determining assignment of work - how will the available work be distributed among the observer contracting companies. An updated discussion paper on the issue of groundfish observer costs by sector and vessel size was provided by NMFS, though the OAC did not have time to review or discuss this issue at this meeting. The OAC also received a report from Larry Boyle (ADF&G) regarding status of the State's shellfish observer program.

**The role of the OAC in the process was perceived to be one of review and comment, as opposed to trying to choose a particular JPA alternative at this time. The Committee's primary focus was to help define the details of each, alternative JPA structure, with the expectation of a final decision in December. The OAC commends the work developed thus far and unanimously recommends further development of the JPA structure by NMFS and the PSMFC this fall. The JPA structure, in general, appears to be cost effective and provides, under any option, for continuation of existing services to the industry.**

**Things that are not directly addressed by the JPA at this time, but should be the subject of future discussions include: (1) disproportionate costs, (2) flexibility of putting observers where we need them (state program funding mechanism solves this problem for crab fisheries), (3) how to monitor observer work and overtime hours, (4) efficiency issues, particularly with 30% vessels, (5) specialization by observers, and whether this should be promoted, (6) re-opening of fisheries - short turnaround and high cost, (7) number of field coordinators required, (8) technical criteria for performance evaluations. A critical, and so far unresolved, aspect of the JPA structure is the question of how the PSMFC will distribute the work among the existing, or future, observer contracting companies.**

A summary of Committee discussions is provided below:

## Optional JPA Structures

The options for JPA structure essentially involve trade-offs regarding the respective roles of the existing contractors and PSMFC. For example, Option 1 leaves the contractor structure intact and PSMFC acts only as the 'arms length' factor, while Option 3 would shift many of the current contractor functions to the PSMFC, and make the contractors more like employment agencies. Option 2 is somewhere in between. It is assumed that observers would remain employees of the contractors under all JPA options, though this issue is listed among the legal questions raised by the OAC.

The OAC's primary discussions centered around the administrative and logistical aspects of the alternative structures; i.e., the specifics of what a vessel/plant would need to do to get their observer, payments for that observer, who they contact in the event of a problem, etc. The particular functions of the PSMFC, the contractors, and NMFS, also need to be clearly specified. Within this general discussion, several specific issues or questions were raised and are summarized below (these may overlap with cost or assignment of work issues discussed later):

- \* need for a port coordinator in Kodiak, either in addition to or in lieu of, Dutch Harbor.
- \* what is role (necessity) of port coordinator under JPA options 1 and 2? Could it be combined with NMFS field personnel?
- \* how does an observer get treated in terms of assignments (specializing in shore plants, or fixed gear vessels, for example). Can NMFS specify, thru the PSMFC, a particular grade of observer for a particular fishery? YES - this flexibility could be written into the JPA if necessary
- \* can JPA agreement require a certain percentage of prior observers? Yes, if necessary.
- \* To the extent pre-payment is required, how will PSMFC estimate the necessary pre-payment amount? Length of season and other factors would be used to project expected observer costs.

## Cost comparisons

Costs were presented from two perspectives: (1) comparisons among the JPA options, and (2) under two observer salary assumptions - the current compensation structure and an assumed increase roughly equivalent to a GS-5. Under the column for the assumed increase, the costs reflect both an increase per day, and a projected increase in the number of days which are paid. Overall cost per observer day does not differ much across the JPA options, nor does it increase with the addition of the third party (PSMFC) in the process. Significant cost increases are associated with an assumed salary increase, independent of any third party/JPA arrangement.

The following issues or questions were raised by the OAC during discussions of program costs:

- \* Short notice fishery openings will be another consideration which will impact costs, likely raising projected costs.
- \* Cost of air fare in the projections assumes a mix of regular fare and 14 day discount fares, but likely underestimates total travel 'occurrences', thereby likely underestimating overall travel costs.
- \* It is understood by the OAC that, in the absence of a union negotiated salary level, the PSMFC can stipulate salary requirements in their contracts with the existing contractor companies.
- \* Port coordinator requirements could affect cost projections - for example, necessity for coordinator

in Kodiak, in addition to Dutch Harbor, may increase cost projections. Also, interactions with existing NMFS staff need to be further researched and may impact port coordinator projections.

\*Overall cost projections will be affected by how a "cruise" is defined (number of days, when it starts and ends, etc), and the extent to which overtime hours are actually worked. Related issue is how observer work hours will be monitored.

\*Regarding the issue of differential pay (incentives) for observers based on experience level- Who would establish those differentials and what would they be? Current projections make an assumed, relatively small differential between experience levels. Resolution of this question does not affect the overall cost *comparisons* among JPA options, because those assume set proportions, but may affect *absolute* cost figures.

\*Underlying assumptions for various cost-related projections need to be clearly spelled out and explained in future iterations for OAC and Council review.

\*Additional costs associated with coordinator support may need to be factored in, particularly under Option 2, but would increase relative costs of that Option only slightly.

### Summary Comparison of JPA options

The OAC reviewed a summary comparison (prepared by staff) of the JPA options, measured against a set of 8 major goals and objectives for an improved observer program. While the OAC found this a useful exercise, we were not yet ready to make a recommendation for a specific JPA Option at this time. The numbers in the comparison sheet are somewhat subjective in nature and are meant to reflect only relative direction. The Committee notes, and the staff concurred, that a 'phase-in' could occur, from Option 1 into Option 2, and even to Option 3, if that is determined to be desirable.

### Assignment of Work Options

The OAC received a report from PSMFC regarding options for distributing the workload among the existing contractors, as well as potential additional contractors in the future. This was the most difficult aspect of the proposed new program that the OAC discussed, and it remains largely unresolved. One aspect of the dilemma is how to maintain any competitive aspect of the observer procurement process, within a JPA structure that attempts to address other concerns, such as to minimize the direct relationships between contractors and vessels/plants. Options proposed by PSMFC include basing the work assignments to some extent on the existing percentages held by each contractor, with potential for the remainder to be distributed based on competitive bid, along with various combinations of fixed versus competitive assignments. This will be a critical aspect of the program and will affect, to some extent, the administrative and logistical details for industry, if not costs to industry.

Legal questions were raised relative to this issue, including: (1) Can we, or should we, limit the number of contractors in business; (2) Can we, or should we, maintain a minimum number of contractors in business; (3) Will there be problems charging some vessels more than others for similar observer coverage, if costs are different among the contractors (recall that PSMFC will determine which contractor a vessel receives); (4) To the extent costs per observer day are similar across all contractors, does this 'standardized' pricing create a legal problem?; (5) Have we created a situation where, legally, the observer is now an employee of the contractor and the PSMFC (joint employer)?; and, (6)

Depending on the assignment of work option chosen, contractors could be 'guaranteed' some amount of business - does this raise any legal problems?

The OAC feels that these issues need to be further explored before significant progress on the JPA structure can be realized. In addition to the legal aspects involved, the assignment of work issue generated significant discussion among the OAC members. Some of the issues raised overlap with other concerns raised under the JPA options discussions - for example, the OAC feels that the issue of observer support is a critical consideration. Depending on the JPA option chosen, as well as the assignment of work option chosen, the support infrastructure for observers could be compromised. The contractors provide a network of logistical support for observers, the importance of which should not be overlooked. Related to this was a general observation that maintenance of a professional core of observers, as well as ensuring that a pool of observers is available to the fisheries at any given time, may be dependent on maintenance of a professional core of contracting companies. Other concerns are noted below:

\*Under some options (fully competitive), observers could be put in a position of uncertainty, unless observers were 'employees' of all contracting companies at the same time.

\*Fishery 'module' concept, as envisioned under the Research Plan, may be applicable here, in terms of rationale blocks of observer coverage to bid on.

\*How will this decision ultimately get made? Can, or should, the OAC and Council provide policy guidance on this issue? Is it a NMFS/PSMFC decision? Barring direction, the PSMFC and NMFS will develop a position for OAC and Council review this fall.

\*Regarding contractor (de)certification, both NMFS and PSMFC want to maintain NMFS in the certification role.

\*A company/vessel may have to deal with multiple contractors, instead of one, under some work assignment options.

\*If salaries are standardized, the competitive aspect of contracting comes down (largely) to minimizing overhead, which will tend to decrease the support and service functions of the contracting companies.

\*The issue comes down to what the role is, or should be, of the contracting companies. We need to identify those tasks that we want the contractors to maintain.

\*Frontloading of costs by contractors - If contractors are guaranteed some level of business, and have to bid on the remainder, then all contractors will tend to frontload their full year's overhead costs into the initial contract. Result is industry paying more than they otherwise would (under a fully competitive process).

\*Objective criteria for evaluating contractor performance and PSMFC performance must be specified.

\*Maintenance of competition vs. other goals. Technical aspects of the review will be critical in accommodating competition. Need to establish objective criteria to 'grade' contractors for future work allotments

\*Sensitivity to disparity of individual industry operators' needs must be considered. Whatever we do must have mechanisms for dealing with grievances by observers, contractors, or industry. Each party needs to know who to contact, and where the resolution lies, in such instances.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Alaska Fisheries Science Center  
Resource Ecology and Fisheries  
Management Division  
BIN C15700, Building 4  
7600 Sand Point Way NE  
Seattle, WA 98115-0070

September 5, 1997

**MEMORANDUM FOR:** Members of North Pacific Fishery Management Council, Council's Scientific and Statistical Committee, Advisory Panel, and Observer Advisory Committee

**FROM:** William A. Karp, Task Leader, North Pacific Groundfish Observer Program *William A. Karp*

**SUBJECT:** Groundfish Observer Costs by Sector

For the June, 1997 meetings of the Observer Advisory Committee and the Council, I provided a memorandum which discussed observer coverage costs by harvesting and processing sector. In some harvesting sectors, observer costs (as a percentage of ex-vessel groundfish catch value) were quite high for certain vessels. The data have been re-analyzed to consider revenue from the halibut fishery in addition to revenue from groundfish fisheries. The results of this analysis are attached.

Table 1 summarizes costs by sector considering observer costs as a fraction of ex-vessel groundfish value alone, and of the sum of ex-vessel values for groundfish and halibut. For most sectors, ranges, averages and medians are similar for both groundfish only and groundfish plus halibut categories. Participation in halibut fisheries occurred in only four of the ten sectors examined (100% and 30% fixed-gear catcher vessels (CVs), 30% fixed-gear catcher processors (CPs), and 30% trawlers CVs), (figs. 1-10). Of the fourteen vessels in the 100% fixed-gear CV sector, only two participated in the halibut fishery (fig. 2) and halibut fishery participation by 30% fixed-gear CPs did not have notable impact on observer costs (fig. 8). For a number of participants in the 30% trawler CV sector and the 30% fixed-gear CV categories, however, inclusion of halibut revenue markedly decreased the proportion of overall catch value expended on observer services (figs. 4 and 5).



The data for each sector was sorted by total ex-vessel catch value and the range of catch values is indicated at the top of each figure. In some cases, vessels whose observer costs were high as a percentage of ex-vessel value gained very little revenue from the groundfish and halibut fisheries.

To be consistent with the information presented in June, data from 1995 were used and the overall average daily observer cost of \$187/day was assumed.



Table 1. Details of groundfish observer costs in 1995 when expressed as a percentage of ex-vessel value of groundfish and groundfish/halibut combined<sup>1</sup>.

	Groundfish			Groundfish + Halibut		
	Range	Ave.	Median	Range	Ave.	Median
100% CV TRWL	0.5 - 2.4	1.3	1.3	0.5 - 2.4	1.3	1.3
100% CV FIXED	1.9 - 9.1	3.5	2.7	1.7 - 9.1	3.4	2.7
100% CP TRWL	0.3 - 2.5	1.0	0.9	0.3 - 2.5	1.0	0.9
100% CP FIXED	1.3 - 6.1	2.4	1.9	1.3 - 6.1	2.4	1.9
30% CV TRWL	0.02 - 9.6	1.5	1.2	0.02 - 9.6	1.4	1.2
30% CV FIXED	0.3 - 24.8	2.5	1.4	0.2 - 24.8	2.0	0.9
30% CP TRWL	1.0 - 3.5	2.2	2.4	1.0 - 3.5	2.2	2.4
30% CP FIXED	0.4 - 7.4	2.3	1.6	0.4 - 7.4	2.1	1.4
Shoreplants	0.1 - 0.9	0.5	0.5	0.1 - 0.9	0.5	0.5
Motherships	0.3 - 7.4	1.8	1.1	0.3 - 7.4	1.8	1.1
Total	0.02 - 24.8	1.9	1.3	0.02 - 24.8	1.7	1.2

<sup>1</sup> BSAI = Bering Sea/Aleutian Islands; GOA = Gulf of Alaska; 100% = Vessels > 124 ft.; 30% = Vessels > 60 ft. and < 125 ft.; CV = Catcher Vessel; CP = Catcher Processor; TRWL = Trawler; FIXED = Fixed Gear (Longline & Pot)

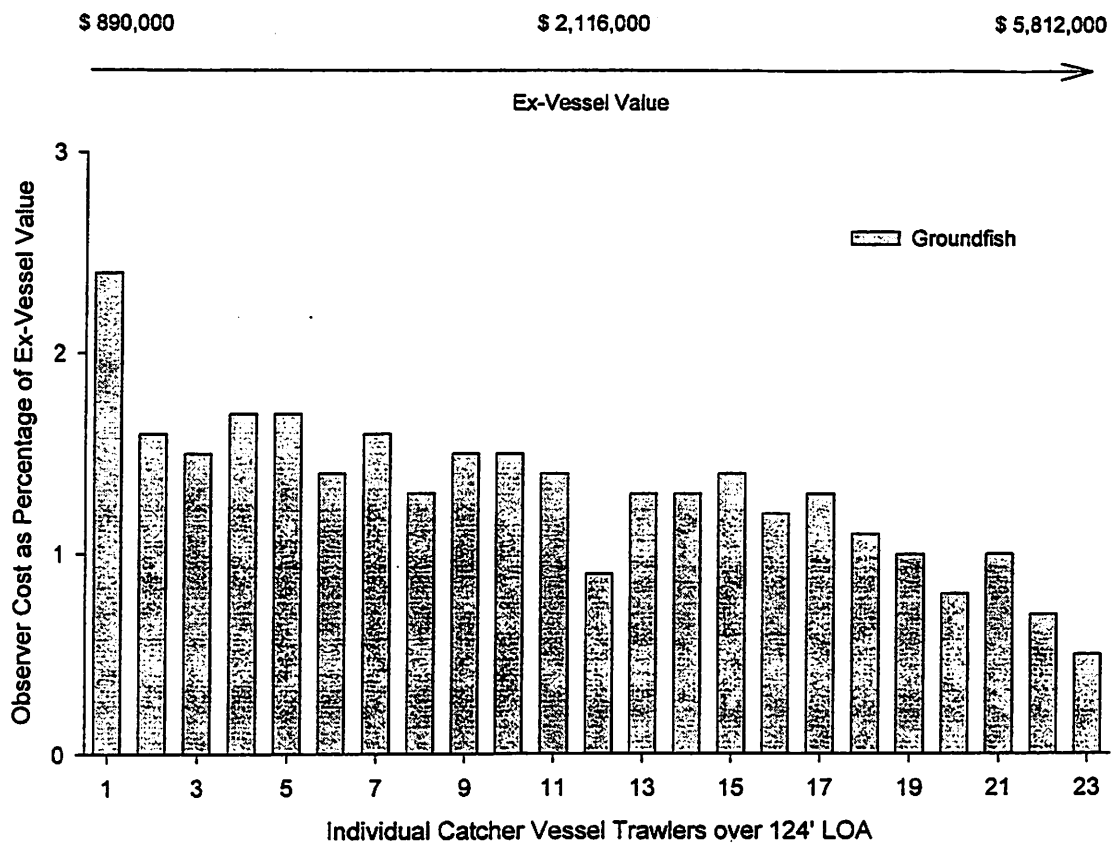


Figure 1. Groundfish observer cost as a percentage of ex-vessel value for catcher vessel trawlers over 124' LOA in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.

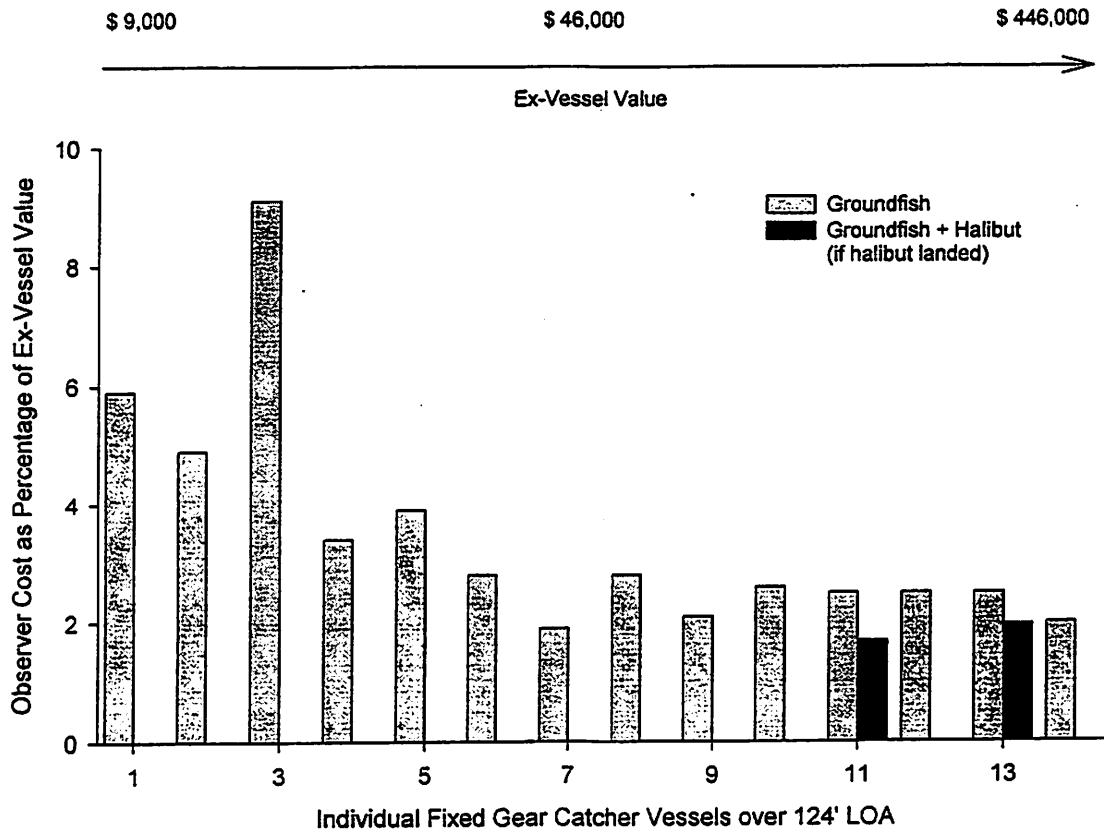


Figure 2. Groundfish observer cost as a percentage of ex-vessel value for fixed gear catcher vessels over 124' LOA in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.

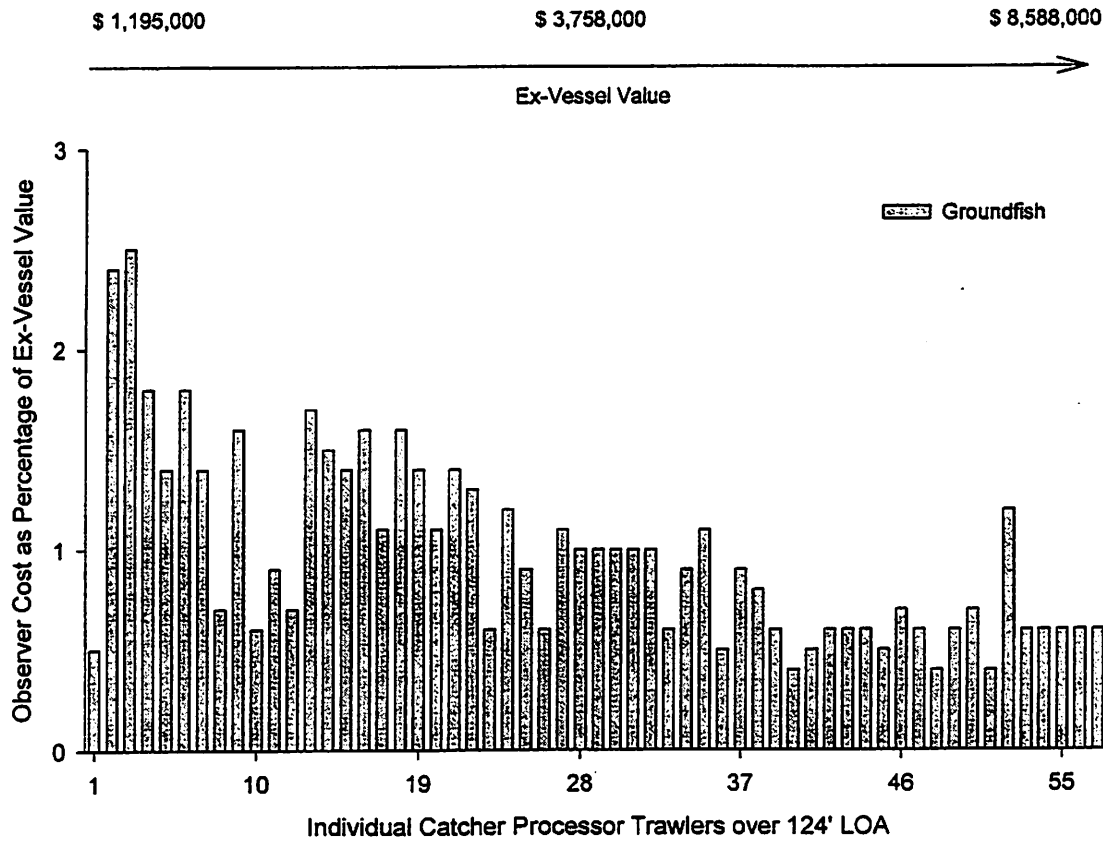


Figure 3. Groundfish observer cost as a percentage of ex-vessel value for catcher processor trawlers over 124' LOA in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.

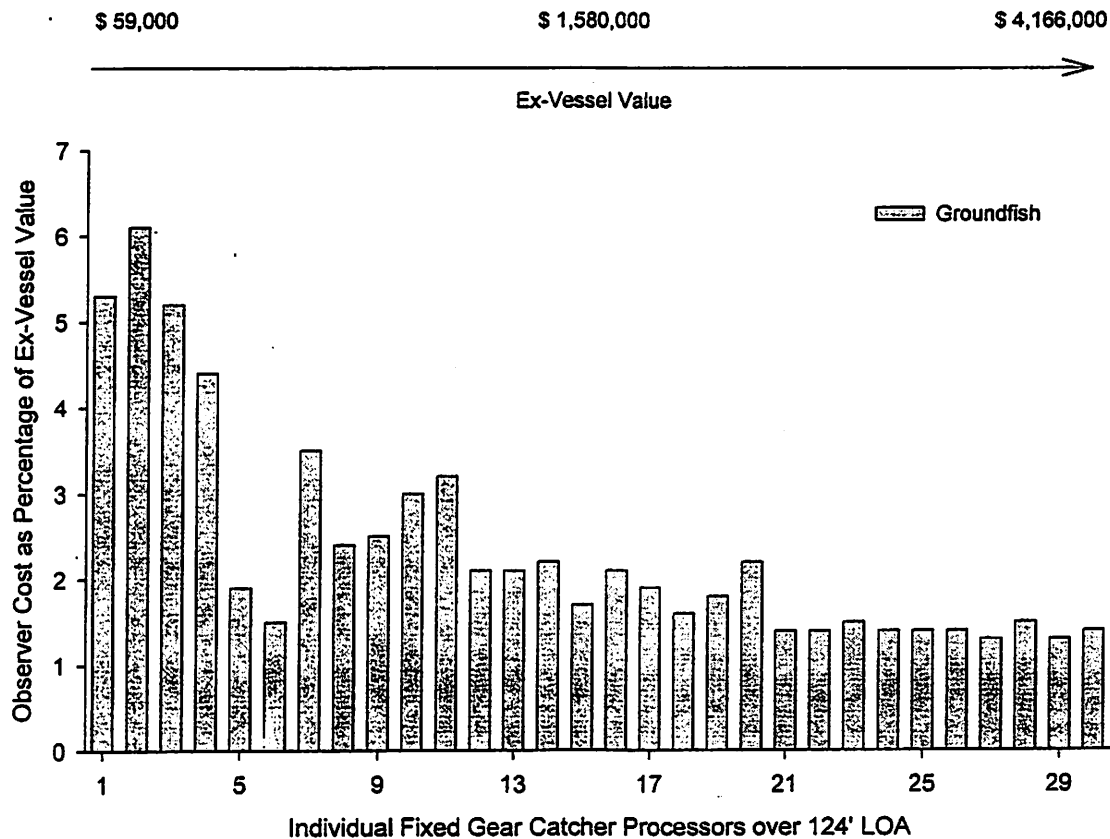


Figure 4. Groundfish observer cost as a percentage of ex-vessel value for fixed gear catcher processors greater than 124' LOA in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.

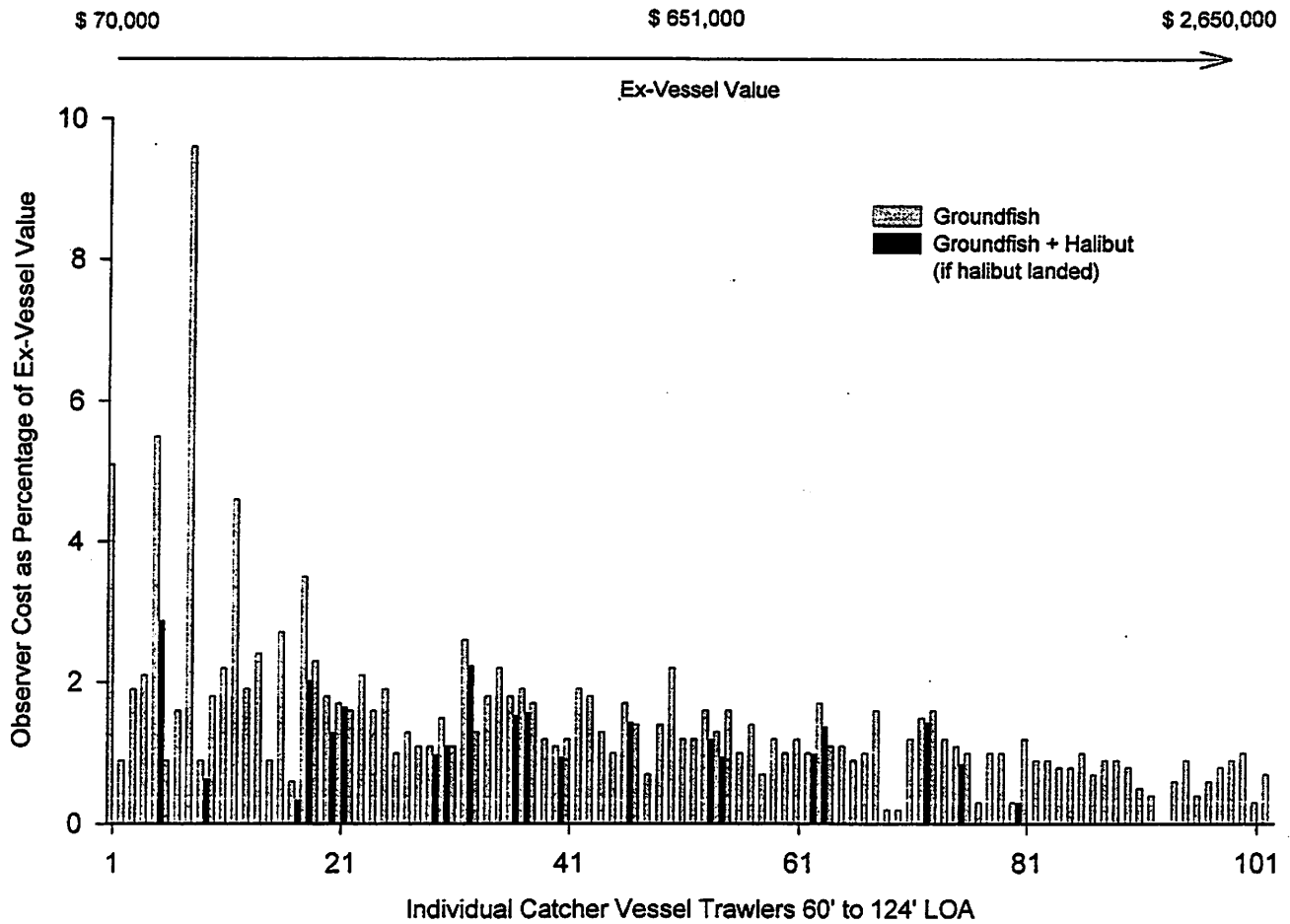


Figure 5. Groundfish observer cost as a percentage of ex-vessel value for catcher vessel trawlers 60' to 124' LOA in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.

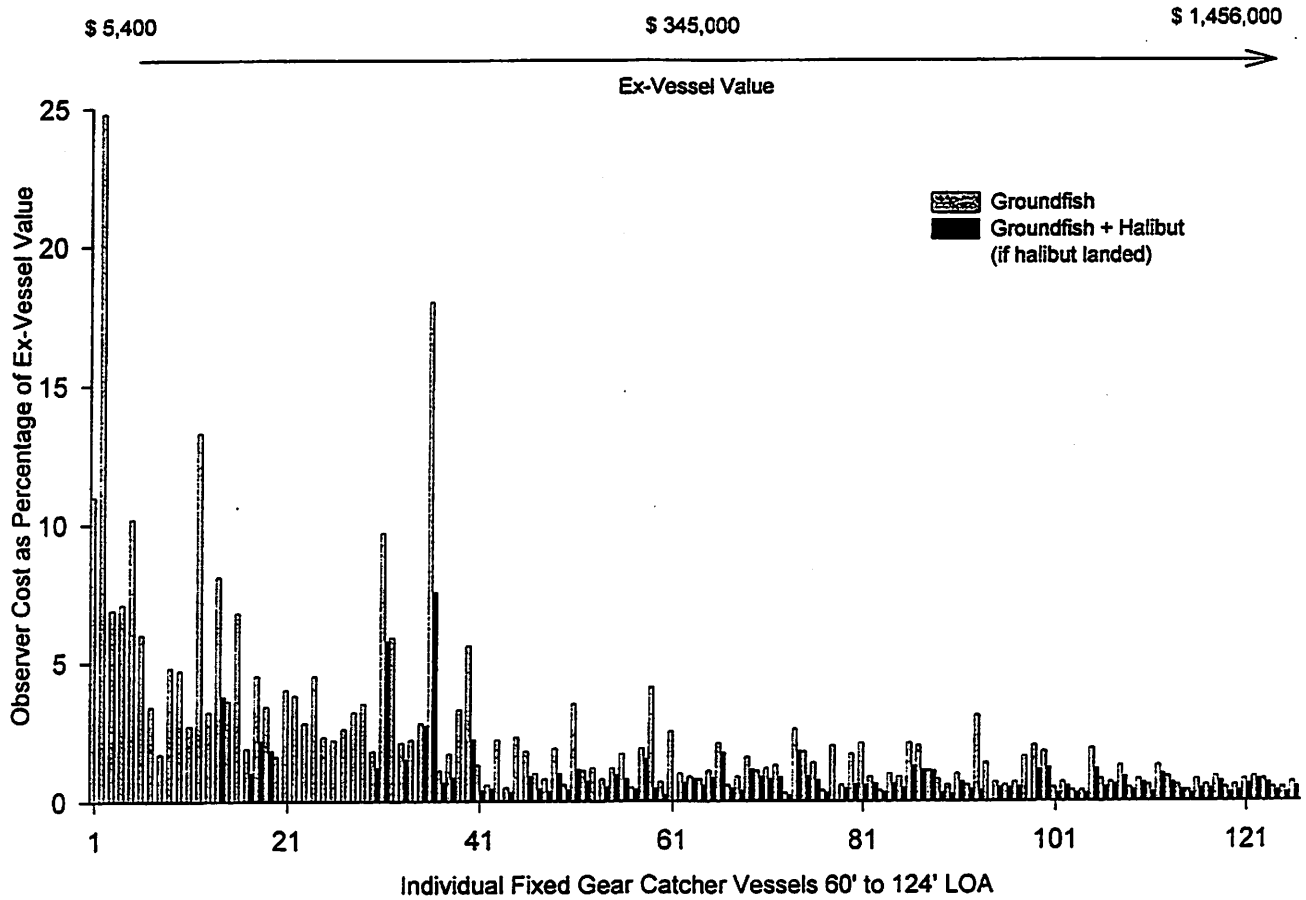


Figure 6. Groundfish observer cost as a percentage of ex-vessel value for fixed gear catcher vessels 60' to 124' LOA in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.

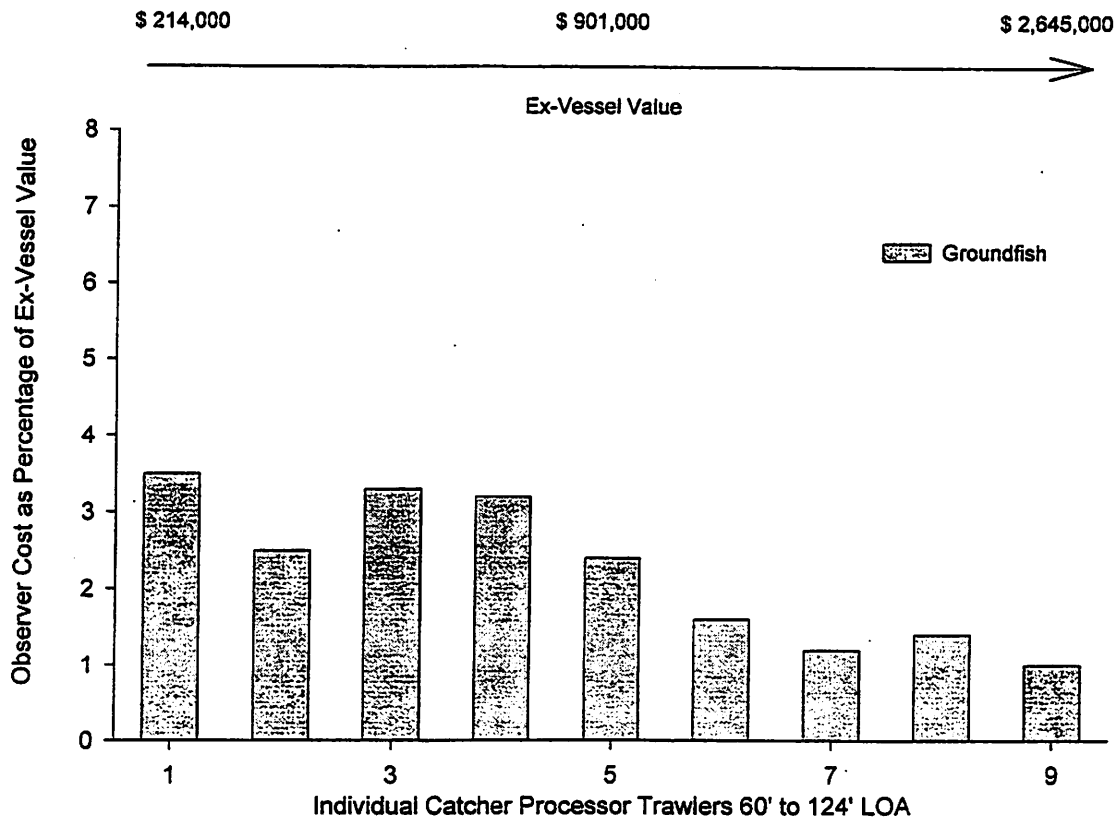


Figure 7. Groundfish observer cost as a percentage of ex-vessel value for catcher processor trawlers 60' to 124' LOA in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.



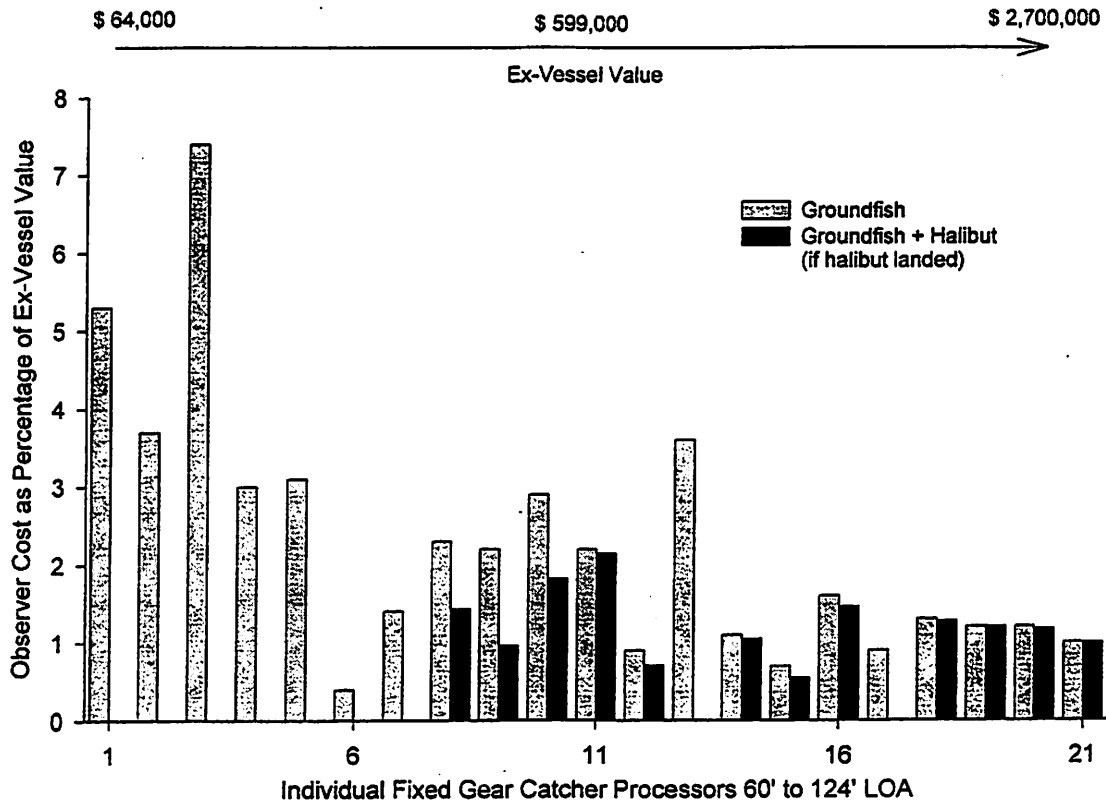


Figure 8. Groundfish observer cost as a percentage of ex-vessel value for fixed gear catcher processors 60' to 124' LOA in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.

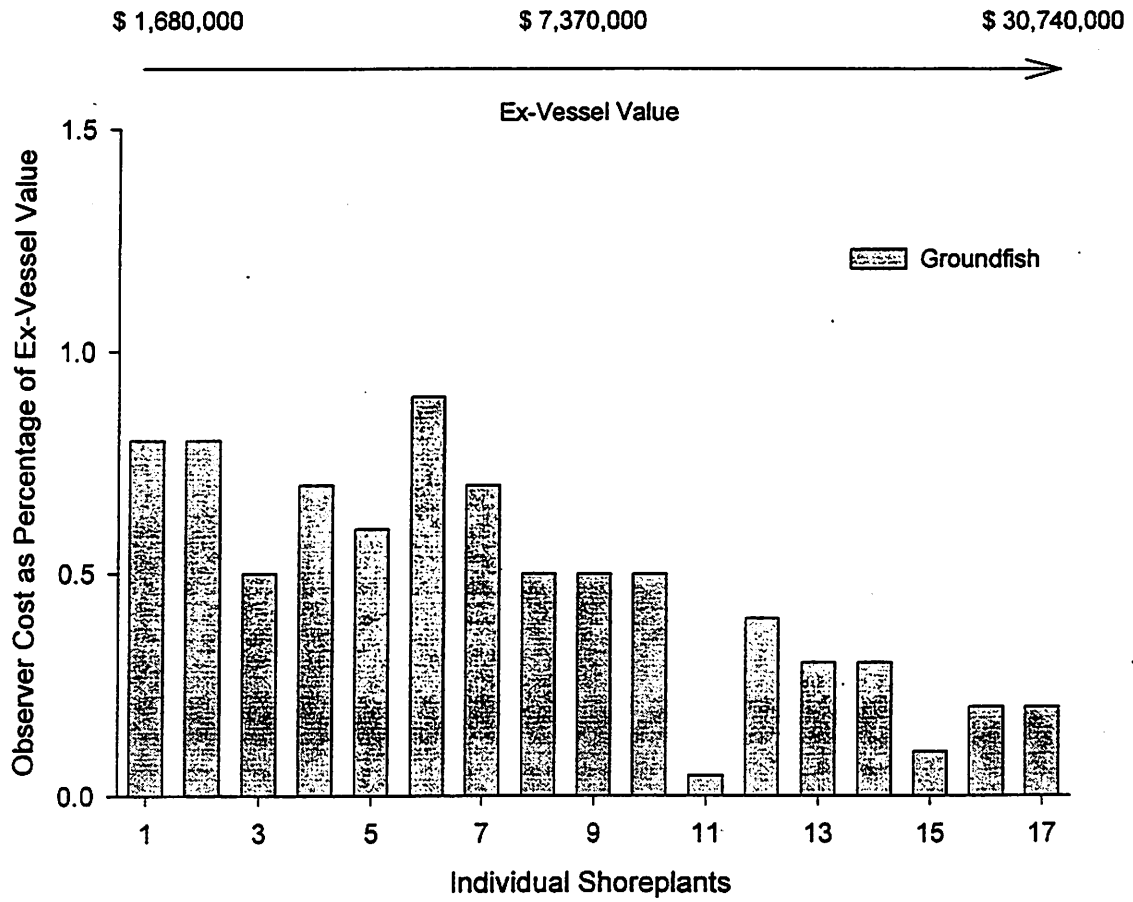


Figure 9. Groundfish observer cost as a percentage of ex-vessel value for shoreplants in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.

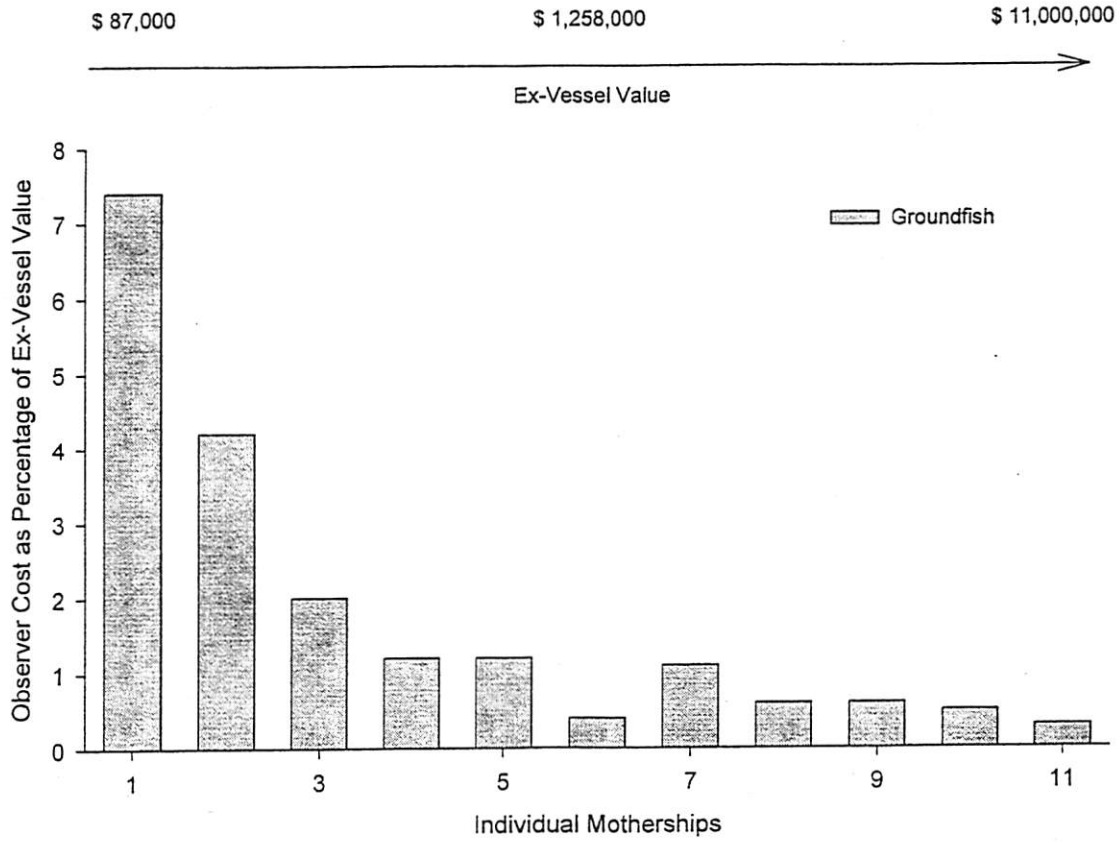


Figure 10. Groundfish observer cost as a percentage of ex-vessel value for motherships in 1995. Ex-vessel value increases along the x-axis as indicated by the scale at the top.

Sept 17, 1997

# Union invited to sea

## Fish observers vote to organize

By HELEN JUNG  
Daily News reporter

Observers who record and monitor commercial fish catches aboard North Pacific vessels have voted to unionize at all five companies that hire observers for the billion-dollar fisheries off Alaska.

The vote capped 10 months of grass-roots campaigning by observers, who have criticized the industry and federal body that regulates North Pacific fisheries for failing to improve pay and working conditions.

By watching and recording what is actually caught, observers play a critical role in ensuring the long-term health of commercial fish stocks off the Alaska coast.

Under federal law, they relay data from fishing vessels back to fishery managers. Managers use that data to determine when to shut down the season because the fleet has caught its limit. The data also are used in numerous research projects.

The National Labor Relations Board this week tallied ballots mailed by observers with Anchorage-based Saltwater Inc., the last of the five companies to have an election this summer. The vote was 64-23 for unionization.

If neither side contests the election by Monday, the Alaska Fishermen's Union will be certified as the Saltwater observers' representative, the NLRB said. The union already has been recognized as the observers' agent for the other four companies.

Randall Simpson, attorney for Saltwater, said Tuesday he does not know whether the company will contest the results.

Totaled across the companies, 196 observers voted to join the union, vs. 26 against, according to the NLRB. The other contractors are Anchorage-based Data Contractors Inc.; Seattle-based Alaskan Observers Inc.; Bellevue, Wash.-based Frank Orth and Associates; and Sisters, Ore.-based NWO Inc. The union covers all observers in federal bottom-fish fisheries. It also covers Saltwater and Data observers who work in the state's shellfish industry.

Observers have been clamoring for help for years from the council, seeking better pay and working conditions. Since 1990, wages have fallen to between \$70 and \$110 a day for 12 to 16 hours' work, according to figures from an observers' association. Morale also has sunk, chasing experienced observers out of the profession and leaving the data gathering to beginners, the association has said.

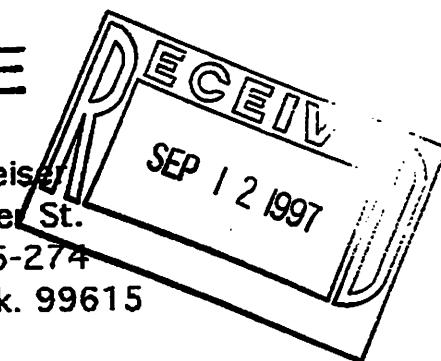
The unionization effort grew out of observers' frustration that the federal council that oversees North Pacific fisheries revoked a "reform" plan under industry pressure two years ago.

Teresa Turk, a former observer who pushed for unionization, said the group wants contractors to negotiate as a unit so that a contract can be in place by Jan. 1.

**FV HAZEL LORRAINE**

Mr. Richard B. Lauber  
Chairman NPFMC  
605 West 4th Ave. Suite 306  
Anchorage, Ak. 99501-2252

Albert Geiser  
202 Center St.  
Suite 315-274  
Kodiak, Ak. 99615



September 9, 1997

Re: Second tier management of the observer program; Pacific States Plan  
For the record, 129th Plenary Session NPFMC, Seattle, Washington

Dear Richard,

The June meeting brought many surprises for the trawl industry. Some good and one idea that is very bad, complicated, and unfair with the potential to bring every fishing community in the State of Alaska to a grinding halt. The Advisory Panel (AP) took testimony from industry, environmental groups, the observers trying to form a union, and Mr. Bill Carp who appeared to be facilitating the move towards unionizing the observers. Was it all an attempt to put some distance between vessel owners and plant operators to eliminate conflicts of interest when hiring an observer? From the audiences point of view it looked as if the AP had only one play developed by staff to vote on, i.e., the "Pacific States Plan" using Pacific States Marine Fisheries Commission (PSMFC) as the arms length manager. It appeared NMFS personnel were actively supporting both the unionization of the observer program and the Pacific States Plan.

First, no one from the NPFMC staff or NMFS staff contacted any one from the trawl industry organizations asking for simple solutions to potential conflicts of interest. Observer fees are expensive fixed costs that are shared by all the vessels above 60 feet and by the crew members of those vessels. For your information most vessels pay their crews a share of the vessels net gross earnings after deducting monthly costs such as fuel, filters, ice, food and observers fees. Adding another layer of management will cost more and directly impact the earnings of all the crews on vessels above 60 feet. From the vessel owners point of view, this potential added layer of management will make it more difficult to share observer costs on airfare, debriefing, down days, and to coordinate the transfer of observers in tight seasons to get everyone covered for their days fished.

# F/V HAZEL LORRAINE

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Mr. Richard Lauber

Re: Second tier management of the observer program, Pacific States Plan

This also puts us one more step away from the accounting of the above mentioned costs. Under the present system an observer works for three 30% vessels that may or may not deliver to the same plant. Between the three vessels, which have been grouped together by the observer company, we have to keep track of the number of days each vessel has used the observer (very rarely the same number of days) and then try to track how we each shared in the expenses. This is currently very difficult with plenty of room for error. How do we track the costs if PSMFC is added to the mix?

The simple solution to the problem of conflict of interest is to have the vessels and the plants rotate among the five observer companies. Each quarter we would have to contact another contractor for service and write the contractors name in our log books, the name of the observer, and rotate through all the companies before coming back to the top of the list. This would also cool off the wage cutting among the contractors because they would know that each quarter the phones would continue to ring to satisfy the rotation.

Second, if the observers form a union and strike, NMFS says that the fishing vessels will not be allowed to fish without observers. That would be a socioeconomic disaster for the communities, the vessels, fish plants, slime line workers, landlords, shipping companies, venders of hardware, fuel, etc... in short for every fishing community in Alaska! Alaska has the only vessel funded observer coverage in the nation (guess we are covered by the inverted form of the Fourteenth Amendment). NMFS is trying to facilitate unionization of the observers, we are required to carry by law, and place the contractors in a position where we can not contact them directly. If the observers strike, we have to sit it out or pay their demands. Is this NMFS holding a gun to our heads to fund the observer program at new levels, or is this a "Catch 22" nightmare?

Questions for NOAA general counsel; When has the government of the United States and its officials been authorized to facilitate the discussion of the formation of a union in a public meeting that could adversely affect, through economic impact, members of the public at large?

## FV HAZEL LORRAINE

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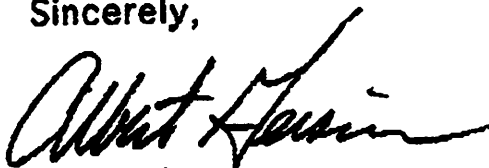
Mr. Richard Lauber

Re: Second tier management of the observer plan, Pacific States Plan

Mr.Carp (for NMFS) has had *ex parte* contact with observers that are attempting to form a union for increased wages and benefits which could ultimately lower the wages of deckhands aboard vessels greater than 60 feet. What recourse can they seek? NMFS has had discussions with PSMFC prior to a decision by NPFMC to adopt a second tier of management which would create an arms length barrier. NMFS has named the plan "Pacific States Plan". PSMFC is a non-profit organization (it will still take money to operate this very complicated scheme, and it will come out of the same hatches). Are there other non-profits, or for profit companies, that could compete for this position if implemented? Is this restraint of trade? No "Requests For Proposal" have been let in the federal trade register. The "Pacific States Plan" is NMFS's favorite. Is this why the AP's scope of options was so short?

The intent of management of our fisheries is to be efficient, fair, and streamlined. Taking the road that could add another layer of management to an already complex system of training, deployment of observers, and training of new second tier management, will spell disaster. You can not legislate honesty among the observers, the vessels, or the plants. A second tier of management will not stop "one time" under the table deals.

Sincerely,



Albert Geiser  
Captain/Owner

cc: Mr. Al Burch, Director Alaska Draggers Association  
Ms. Melanie Gundersen, Director Peninsula Marketing Association  
Mr. Fred Yeck, Midwater Trawlers Cooperative  
Ms. Chris Blackburn, Alaska Data Bank  
Mr. Dave Hansen, Pacific States Marine Commission  
Mr. Steve Penoyer, NMFS Juneau