

LAW OFFICE OF
BRUCE B. WEYHRAUCH, LLC

whyrock@gci.net

114 S. FRANKLIN ST.

SUITE 200

JUNEAU, ALASKA 99801

TELEPHONE: (907) 463-5566 FAX: (907) 463-5858

April 2, 2014

Dr. Diana Stram
Scallop Plan Team
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, Alaska 99501-2252

Dear Dr. Stram:

On February 25, 2014, Paul Seaton wrote you a letter in the form of public comment on what he indicated were “issues pertinent to Scallop Management in Alaska.” We represent the Alaska Scallop Association and while the Association eventually received a copy of Mr. Seaton’s letter to the Plan Team, we considered whether to respond to it or not. On balance, after much thought, we decided to write this letter to the Scallop Plan Team because as fisheries managers and scientists, we appreciate that you want facts to make informed decisions, and because we wanted to clarify the significant amount of misinformation related to Alaska’s scallop management contained in Mr. Seaton’s letter and in other forums where Mr. Seaton has made statements that are at best inaccurate and at worst intentionally misleading.

It is particularly troubling that Mr. Seaton wrote his letter to the Plan Team using Alaska State legislature letterhead, as if that makes what he says more important or “more accurate”. Mr. Seaton does not speak for the Alaska legislature, but when he does speak or write using his position in the legislature, he enjoys complete immunity to say anything, which other citizens do not enjoy. We write based on documented facts and policies that can be confirmed for accuracy.

A. Scallop Management in Alaska

1. The Council’s Scallop Fishery Management Plan

Under the Magnuson Stevens Fishery Conservation and Management Act (MSA), the North Pacific Fishery Management Council prepared a Fishery

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 2

Management Plan for the Scallop Fishery off Alaska.¹ The Scallop FMP requires the scallop fishery to be jointly managed by NMFS and ADF&G.² The Scallop FMP covers all scallop stocks off the coast of Alaska.³ The Scallop FMP was first approved on July 26, 1995, when it established a 1-year interim closure of federal waters to scallop fishing to prevent uncontrolled fishing.⁴

The intent of the FMP was to prevent an unregulated and uncontrolled fishery for scallops.⁵ Among other things, the scallop FMP had to comply with the MSA's 10 national standards.⁶ All of these national standards are of course important but National Standard 5 bears particular attention in the context of this letter. National Standard 5 provides: "Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose."⁷

The Scallop FMP, in part, provides:⁸

Conservative management of the scallop resource is warranted given (1) unprecedented activity of vessels fishing for scallops in Federal waters outside the jurisdiction of Alaska State regulations, (2) the harvesting and processing capacity of the scallop fleet, which, if allowed to fish unregulated in Federal waters, could exceed State harvest guidelines by several orders of magnitude, (3) inadequate data on stock status and biology, and (4) the vulnerability of the scallop resource to localized depletion. The Council, in cooperation with the State, is committed to developing a long-range plan for managing the scallop fishery that will promote a stable regulatory environment for the seafood industry and maintain the health of the resources and

¹ http://alaskafisheries.noaa.gov/npfmc/PDFdocuments/fmp/Scallop/Scallop_FMP2006.pdf

² Scallop FMP, page i.

³ Scallop FMP, page 1.

⁴ Scallop FMP, page i.

⁵ Scallop FMP, page 1.

⁶ 16 U.S.C. § 1851.

⁷ 16 U.S.C. § 1851(a)(5).

⁸ Scallop FMP, page 5.

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 3

environment. The management system conforms to the [MSA's national standards].

NMFS and the Council defer most of the day-to-day scallop management to the State.⁹ Consequently, the Council delegates the responsibility for developing information upon which to base state scallop fishing regulations to ADF&G, with assistance from NMFS.¹⁰

The Scallop FMP declares that “all management measures, except limited access and MSA requirements, are delegated to the State of Alaska. ADF&G management of the weathervane scallop fishery covers both state and federal waters off Alaska.”¹¹ This delegation includes such things as harvest limits through guideline harvest ranges, establishing registration areas, gear, crew and efficiency limits, and seasons and in-season adjustments.¹² However, the state’s “implementation of additional management measures not described here must be consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law.”¹³

2. Alaska's Management of the Scallop Fishery

Alaska has three different kinds of fishery management programs managed through the Commercial Fisheries Entry Commission (CFEC): 1) open access, 2) operator-based, and 3) vessel-based. Most of Alaska's fisheries —like salmon, crab, and black cod — are now operator-based limited entry programs. Others — like octopus and rockfish — are open access. Only the scallop and Bering Sea hair crab fisheries have been vessel-based.¹⁴

As indicated in the Scallop FMP, the state has considerable latitude and discretion delegated to it by the federal government to manage scallop fisheries.

⁹ Scallop FMP, page 8.

¹⁰ Scallop FMP, page 9.

¹¹ Scallop FMP, page 40.

¹² See Scallop FMP, pages 18 -24.

¹³ Scallop FMP, page 24.

¹⁴ Those limited entry fisheries are unique in the state as the only ones in which the Commercial Fisheries Entry Commission limits vessels. In all salmon and other state waters fisheries, only human beings may be limited and the limited entry license holder must be aboard the boat when harvesting occurs under that person's license.

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 4

Under state management, since the early 1980's, between 4 and 20 vessels annually have participated in the Alaska scallop fishery.¹⁵

The Alaska Legislature enacted a 4-year vessel moratorium on the vessel-based limited entry programs in the scallop and hair crab fisheries in 1997.¹⁶ The Legislature extended the moratorium in 2001 and extensions were again adopted until 2013. From 1997-2000, 8 vessels obtained state permits from the CFEC for statewide registration areas, and those vessels range in size from 63 to 124 LOA.¹⁷

B. Senate Bill 54 Would Have Extended Vessel-Based Limited Entry for the Scallop and Hair Crab Fisheries

Senate Bill 54 was introduced in the Alaska State Senate on February 13, 2013. SB 54 was intended to extend the sunset date on vessel-based limited entry participation in both the Alaska scallop and the Bering Sea hair crab fisheries. The Senate Resource Committee Substitute for SB 54 passed the Senate on an 18-1 vote on March 18, 2013. SB 54 then moved over to the Alaska House of Representatives and was referred to the House Special Committee on Fisheries chaired by Mr. Seaton.

On April 11, 2013, Mr. Seaton's Fisheries Committee held a brief hearing on the Bill but took no action and did not allow CFEC representatives to testify or participate. The legislature adjourned on April 14, 2013, and that meant that CFEC's limited entry program for scallop sunset, and state water Alaska scallop and hair crab fisheries reverted to open access on December 31, 2013.

In anticipation of the weathervane scallop fisheries opening on July 1, 2014, the Alaska Board of Fisheries adopted language to deal with the open access fishery. Alaska has had a scallop management plan in place for many years, but the Board amended that plan to deal with the problems caused by Mr. Seaton and indicated that if the Legislature extended the life of the vessel-based management program in the scallop fishery, its amendments would not have to be implemented.

¹⁵ Scallop FMP, page 32.

¹⁶ CFEC, 3A Brief Overview of the Alaska Weathervane Scallop Fishery and the Vessel Permit Limited Entry Program 5 (Feb. 2007) (CFEC Overview Report).

¹⁷ CFEC Overview Report, page 6.

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 5

During the legislative process, the Council supported passage of SB 54.¹⁸ In expressing support for SB 54, the Council wrote that “if the vessel moratorium is allowed to expire, the potential exists for an open-access fishery in State waters that is inconsistent with management measures to limit effort in federal waters.”¹⁹ The Council’s support for SB 54 and its sunset extension on CFEC’s authority to maintain a vessel-based limited entry fisheries system for the scallop fisheries mirrors its support for a similar measure before the Alaska legislature in 2007.²⁰

ADF&G has stated that any changes in scallop management that affect federal waters should be developed in concert with federal officials to ensure that state retains management of those waters.²¹ In assessing the impact of the scallop

¹⁸ Letter from Council Chairman Eric Olson to Alaska Senator Cathy Giessel (Feb 25, 2013) page 1.

¹⁹ Letter from Council Chairman Eric Olson to Alaska Senator Cathy Giessel (Feb 25, 2013) page 1. The rationale given by Chairman Olson for supporting passage of SB 54 expressed specific concerns:

If the state waters portion of the fishery reverted to open access, additional vessels with unrestricted fishing capacity could target scallops in state waters. Disproportionate harvest of the scallop beds could lead to stock conservation concerns; including that portion of the stock in federal waters. Two additional concerns result from a bifurcated management regime. First regulatory encroachment along the 3-mile line would be problematic. Second, Tanner and red king crab bycatch would likely increase as a result of increased fishing effort with a restricted portion of the scallop bed. Weathervane scallop stocks in Alaska are small. Concerns with over capitalization, and the resulting stock conservation and crab bycatch concerns have largely been addressed through complementary federal and state limited entry/access programs. The Council encourages the Alaska Legislature to extend the Weathervane Scallop limited entry program in state waters to coordinate with the federal program implemented by this Council.

²⁰ Letters from former Council Chair Madsen to Alaska Representative Paul Seaton (Feb. 27, 2008 & Apr. 2, 2007).

²¹ Letter from ADF&G Commercial Fisheries Division to Alaska Representative Paul Seaton page 1 (July 7, 2007) (“ADF&G’s 2007 Scallop Management Letter”). We have no information that any of the statements made by ADF&G in this letter were any different in 2013.

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 6

fishery “going open access” because of the Alaska Legislature’s failure to extend the vessel-based limited entry program, ADF&G has stated that to the extent that “participation, effort, and efficiency would increase within state waters under open access, management and enforcement could become more difficult, time-consuming, and expensive. To the extent that the vessels operating in federal waters would be different from the vessels operating in state waters, more resources could be needed to try to enforce the state and federal boundary.”²²

In 2007, ADF&G indicated that it would be submitting an agenda change request to the Board of Fisheries that would allow the BOF to discuss open access state water scallop fishery (begging in January 2009) when the limited entry program was set to expire. ADF&G wrote: “Developing a state-waters scallop fishery independent from the state-managed federal waters scallop fishery is likely to result in additional state research and management program funding needs.”²³

ADF&G supports the state’s “vessel based limited entry program as an important element in the overall management strategy to provide, or bring back, viable fisheries while also implementing necessary scallop and crab conservation measures.”²⁴

ADF&G also wrote that it was “concerned that if many vessels participate in the open access fishery there may be unnecessary habitat damage by vessels prospecting in state waters areas that have few scallops.”²⁵ It is important to note that we cannot find any recent information that contradicts ADF&G’s support for the existing vessel-based limited entry system for scallops.²⁶

Based on ADF&G’s submission to the Alaska Legislature in 2007, the reasons ADF&G supports a vessel-based limited entry system for scallops include:

²² ADF&G 2007 Scallop Management Letter, page 2.
²³ ADF&G 2007 Scallop Management Letter page 4.
²⁴ ADF&G Talking Points for HB 16 (May 3, 2007).
²⁵ ADF&G 2007 Scallop Management Letter page 5.
²⁶ ADF&G Talking Points for HB 16 page 1 (May 3, 2007).

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 7

- A vessel-based limited entry system proved conservation benefits for scallops, that were not provided by an individual based limited entry system (9 scallop boats versus at least 27).²⁷
- “Because of the limited number of boats fishing and the bycatch data collected, the vessels have been able to reduce crab bycatch and avoid premature closures.”²⁸
- “The vessel based limited entry program works together with the guideline harvest ranges, observer data, other sampling, closed areas, seasons, and gear limitations to provide a sustainable management program for scallops. It is not clear what will happen if one of those tools is removed or what exactly could replace it without affecting the viability of the fishery.”²⁹
- Conservations concerns will arise without it because numerous vessels with unrestricted fishing capacity could target state water scallops, resulting in overharvests and closures.³⁰

C. Alaska Board of Fisheries Actions in 2014 on Scallop Management

In 2013, in commenting on SB 54, Mr. Seaton expressed his view that vessel-based management in the hair crab and scallop fisheries presented “constitutional problems.” However, Mr. Seaton did not clarify or support that view, and ADF&G, the United Fishermen of Alaska, Governor Parnell, and ADF&G all supported continued vessel-based limited entry in both fisheries and their support for SB 54.

In January 2014, during the Board of Fisheries meeting in Kodiak, Mr. Seaton again used Alaska State Legislature stationery to express his views on the scallop fishery, and to urge the Board of Fisheries to take management measures

²⁷ ADF&G Talking Points for HB 16 page 1 (May 3, 2007).

²⁸ ADF&G Talking Points for HB 16 page 1 (May 3, 2007).

²⁹ ADF&G Talking Points for HB 16 page 2 (May 3, 2007).

³⁰ ADF&G, Scallop Fishery Management in the Absence of the State Waters Vessel-Limited Entry Program, page 2 (May 3, 2007).

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 8

that Mr. Seaton wanted.³¹ In this letter, Mr. Seaton clarified what he wanted the Board of Fisheries to do: prevent vessels greater than 80-feet from participating in the state scallop fishery.³² By itself, this move would have prevented six of the nine scallop vessels that have historically participated from even participating in the state fishery again.

D. Alaska Legislature's Actions in 2014

When the Board failed to do what Mr. Seaton advocated using his position as a legislator, he incorporated language that resurrected the Alaska Regional Development Organization (ARDOR) program (which is a program that promotes regional economic development³³) into HB 71. Mr. Seaton then joined a moratorium extension for the vessel-based limited entry system for the Bering Sea hair Crab fishery with the ARDOR program into HB 71. However, he stripped out the vessel-based limited entry program in the scallop fishery.

These political maneuvers gave a political fix to bring legislators on board who wanted the ARDOR program to continue because it meant that the ARDORs in their districts would receive state appropriations, which overcame concerns for the fisheries parts of the bill. The Senate approved this political compromise on February 21, and it went to the House where it was approved on February 24. Governor Parnell signed the bill on March 25 without mentioning anything about the hair crab portion of the bill.

One aspect of this political Gerry-mandering is it demonstrated that any concerns that Mr. Seaton had about the constitutionality of a vessel-based limited

³¹ Letter from Paul Seaton to Alaska Board of Fisheries, Jan. 7, 2014 (accepted by the Board of Fisheries as RC 43). (<http://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.meetinginfo&date=01-07-2014&meeting=kodiak>).

³² It appears that a member of Mr. Seaton's immediate family owns a vessel less than 80-feet that would qualify for the state water scallop fishery. See vessel NOAA/NMFS vessel documentation data base and key in USCG Official Number 542086 (<http://www.st.nmfs.noaa.gov/coast-guard-vessel-search/index>).

³³ ARDOR programs cover the entire state including local groups like the Anchorage Economic Development Corp and regional organizations like Southwest Conference, and they are intended to promote local economic development and financially assist individuals or groups organizing businesses.

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 9

entry program were perhaps disingenuous. If Mr. Seaton believed that it was unconstitutional to have a vessel-based limited entry program for the hair crab and scallop fisheries, how can the hair crab vessel-based limited entry system be constitutional, but not the scallop system?

When HB 71 came up for a vote on the floor of the House on February 24, 2014, here is what Mr. Seaton said (portions of this transcript are underlined as those underlined portions are addressed further below):³⁴

Um. The Limited Entry program that we have in the State of Alaska has permanent permits that are in every fishery except two; and that was the scallop fishery and the Korean hair crab fishery in which case the, uh, the permits went to non-operators of the fishery; in other words they went to vessel owners whether the vessel owners were on the boats or not. They were, uh, those permits allowed rapid consolidation so that we now only have 3 vessels participating in the fishery; one small vessel out of Kodiak and 2 large vessels out of, um, another port, outside of Alaska. And, these permits were an experiment that started in 2003 and they had sunsets on them. And they had sunsets on those permits for a very specific reason, to find out if they were going to lead to rapid consolidation. We have many areas in our state where we have harvests which we cannot even know how much was harvested, because there are too few vessels participating. If only two vessels participate in a region, we cannot even find out whether the taxes were paid; or how much product was produced in that area because it's confidential information if there're under 3 vessels participating. So, this scallop fishery demonstrated that these permits gave us poor results for Alaskans. The Board of Fisheries at this last meeting in, um, Kodiak, established a new state water scallop fishery which will allow greater participation by Alaskans. Um, and anyone then can file for a permit and can participate in this fishery. So this is not re-trenching or retracting a fishery; it's actually allowing more Alaskans to participate in a fishery. ... the

³⁴

http://www.360north.org/gavel-archives/?event_id=2147483647_2014021418.

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 10

scallop fishery was these large vessels swinging, uh, three times the amount of gear, uh, would outcompete Alaskans in the smaller coastal fleet. So, um, it allowed this rapid consolidation; was poor for the state of Alaska; and that has is not in this bill.

Below are Mr. Seaton's comments (underlined in transcript above), followed by the countervailing facts:

What Mr. Seaton said: "The scallop permits allowed rapid consolidation so that we now only have 3 vessels participating in the fishery."

The facts: There are 4 vessels, not three, and these boats were fishing on record low catches. Note as the allowed catch goes down, the corresponding number of vessels fishing also falls as one would expect.³⁵ Also, the scallop permits did not "allow rapid consolidation." What happened was there was a cooperative formed by vessel permit holders, but there was no consolidation in Alaska waters. Some fishermen voluntarily formed a cooperative and voluntarily restricted their participation. The was, and is, entirely legal. Coops are not illegal under Alaska law and they are promoted under federal fisheries law. The authors of a 2008 article performed a detailed study of the Alaska Scallop fishery cooperative and concluded that it "increased harvesting efficiency while reducing bycatch of crabs and other species. Scallop landings increased in relation to guideline harvest limits, total crab bycatch declined, crab bycatch decreased in relation to limits and season length increased dramatically."³⁶ Thus, the result of this was that Alaska fishermen, Alaska communities, the Alaska scallop fishery, and the crab resource all benefitted from the Alaska cooperative.

What Mr. Seaton said: "One small vessel out of Kodiak and 2 large vessels out of, um, another port, outside of Alaska."

³⁵ <http://www.npfmc.org/wp-content/PDFdocuments/resources/SAFE/ScallopSAFE/ScallopSAFE313.pdf>. See page 84 of this SAFE Report.

³⁶ T. Brawn & Kevin Scheirer, The Alaskan Weathervane Scallop Cooperative, published in Ralph Edwin Townsend, Ross Shotton, & Hirotsugu Uchida, Case Studies in Fisheries Self-Governance (Food & Agriculture Org.) (Jan. 1, 2008). (<ftp://ftp.fao.org/docrep/fao/010/a1497e/a1497e30.pdf>.)

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 11

The facts: There are four scallop boats, and all are home ported in Kodiak, where they pay dock fees, pay for repairs, hire crew, supply their boats, and unload their scallops. All the partners on these boats are lifelong Alaskan fishermen, some of who have partnered together to survive the now very small but sustainable scallop harvest levels in the state (the harvest level is now 1/5th of what it was in 1992). Some of these partners/fishermen on these boats are residents of Alaska and some are nonresidents; we think that is the same for almost all fisheries in Alaska. In fact, many owners of limited entry permits are not residents of Alaska.

What Mr. Seaton said: “And, these permits were an experiment that started in 2003 and they had sunsets on them. And they had sunsets on those permits for a very specific reason, to find out if they were going to lead to rapid consolidation.”

The facts: This “legislative history” is a fiction created out of whole cloth; we can not find any record of anything Mr. Seaton or anyone else said about an “experiment” or “rapid consolidation” that is accurate. There was no experiment at all; experiment means a “tentative procedure or policy” or “an operation or procedure carried out under controlled conditions in order to discover an unknown effect or law.”³⁷

What Mr. Seaton said: “We have many areas in our state where we have harvests which we cannot even know how much was harvested, because there are too few vessels participating.”

The facts: In all areas of the state where there are scallop harvests, the state always knows how many scallops were harvested, and when they were harvested. All scallop boats in Alaska have 100% observer coverage and they report all landings by all boats to ADF&G. What Mr. Seaton said was a complete and utter fabrication.

What Mr. Seaton said: “If only two vessels participate in a region, we cannot even find out whether the taxes were paid; or how much product was produced in that area because it’s confidential information if there’re under 3 vessels participating.”

The facts: The Scallop SAFE Report has all the information Mr. Seaton would ever need to see what is harvested where. As far as taxes, the Alaska Department of Revenue insures that taxes are paid. With 100% observer

³⁷ <http://www.merriam-webster.com/dictionary/experiment>.

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 12

coverage, there is no way to 1) hide the location of any landings, or 2) report different landings to the Alaska Department of Revenue than the observer reports to ADF&G and that harvesters put on their fish tickets when they unload their catch. There are three “checks” on fishermen participating (100% observer coverage, landing reports to ADF&G, and landing income reports to Revenue). If one tries to game the system by not paying the correct tax, or hide a landing, fishermen know they are subject to criminal prosecution. In addition, there are other CFEC limited entry fisheries other than the scallop fishery with few participants, and the standard for keeping landing information confidential is whether it would disclose the identity of a participant. Mr. Seaton could continue to make use of the Alaska Legislature’s letterhead and simply ask the Department of Revenue if scallop boats have been paying taxes.

What Mr. Seaton said: “So, this scallop fishery demonstrated that these permits gave us poor results for Alaskans.”

The facts: The existing system insured that Alaska ports and Alaskans obtained good results from the fishermen participating. Mr. Seaton reaches a “poor results” conclusion that is not based on the facts.

What Mr. Seaton said: “The Board of Fisheries at this last meeting in, um, Kodiak, established a new state water scallop fishery which will allow greater participation by Alaskans.”

The facts: Alaska’s scallop fishery already had both resident and nonresident participants and will almost certainly continue to be fished by both even in an open access fishery. Open access to a fishery does not apply only to residents. That would be unconstitutional and violate the MSA.

What Mr. Seaton said: “So this is not re-trenching or retracting a fishery; it’s actually allowing more Alaskans to participate in a fishery. ... the scallop fishery was these large vessels swinging, uh, three times the amount of gear, uh, would outcompete Alaskans in the smaller coastal fleet.”

The facts: These “large vessels” are also owned by Alaskans. There is no logical, policy, or legal basis to eliminate people from a fishery based on the perceived residency of a participant. (See footnote 36 and accompanying text.)

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 13

What Mr. Seaton said: “So, um, it allowed this rapid consolidation.”

The facts: The harvest levels shrank because most participants could not afford to go fishing. There were also fewer scallops to harvest and thus less incentive for fishermen to participate.

E. Mr. Seaton’s Letter to the Scallop Plan Team in February 2014

In Mr. Seaton’s February 25, 2014 letter to the Scallop Plan Team, he asked the Team to forward his concerns to the Council to research whether access to the federal water scallop fisheries violates the MSA. Mr. Seaton’s continued and frequent use official Alaska legislature letterhead to gain government action we believe is inappropriate. In addition, Mr. Seaton should use his own resources to do his own legal research, but instead carries out what now seems to be a vendetta against existing scallop participants and appears to hope the Team adopts his views. We do not ask the Team to take a position on Mr. Seaton’s request, but his motives for Scallop Plan Team action may be related to other agendas.

F. Other Facts about Scallop Harvesters and Harvests

We also want to point out a few things that most members of the Scallop Plan Team may already aware:

- Scallop harvest catches today are much more conservatively managed than the 80’s and early 90’s and are 22% of what they were in 1992 the highest scallop catch on record, or 4.38 times larger in 1992 than today.
- Scallops are still landed today in Homer as well as other traditional scallop landing ports of Kodiak, Dutch Harbor, Yakutat, and Sitka. None are landed outside of Alaska. All vessels that were currently fishing (before 2014) are home ported in Alaska, mostly in Kodiak, and participate in multiple Alaskan fisheries.
- ADF&G’s 100% observer requirement has resulted in better in-season management and a significant reduction of crab bycatch.
- ADF&G’s onboard observer requirement has been a key part of the successful management of Alaska’s scallop fishery for the past 22 years, since the observer program’s implementation 1993.
- The observers record and report all crab bycatch, and that forces fishermen to avoid areas of high crab densities. Without an onboard observer, fishermen would naturally fish in the areas of highest scallop densities with

Dr. Diana Stram
Scallop Plan Team
April 2, 2014
Page 14

complete disregard to crab bycatch. A 6-foot dredge still catches crab and must be towed longer than a larger dredge; multiple 6-foot dredges can catch large quantities of crab.

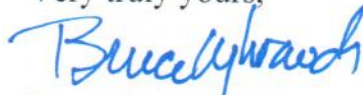
- The onboard observers can ensure the scallopers fish within the proper boundaries. By using the accurate and trustworthy data reported from the trained onboard observers, ADF&G managers are able to close scallop areas within 0.1% of their GHLS and/or bycatch caps; that is an enviable, even unheard of precision in comparison to most other fisheries.

- Weathervane scallops are sold to some of the world's best restaurants. These high-end restaurants and their customers are very sensitive to the "Sustainability" movement. As a result of the very strong and effective Alaska scallop observer program, the existing scallopers with the help of UAF, ADF&G, and NMFS, have been successful in having the Monterey Bay Aquarium to give Alaska Scallops their highest "Best Choice" or "Green" rating.

G. Conclusion

We ask you to call if you would like any additional information about what we write here. We also invite you to provide any corrections to what we have written so we can clarify or correct the contents of this letter to other members of the Plan Team.

Very truly yours,



Bruce B. Weyhrauch