



15 May 2023

Mr. Jon Kurland
Regional Administrator
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National Marine Fisheries Service
PO Box 21688
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Dear Jon,

I'm writing to voice, once again, my concern regarding what has for years now been an unlevel playing field in the North Pacific Observer Program. I say "once again" because this is not a new concern, as evidenced by the two letters attached here that the then-permitted Providers sent to the Observer Program in May of 2016. These now 7-year-old letters warned of the negative impacts that would result if NMFS approved what was at the time a pending application by A.I.S. to join the existing group of three Permitted Providers. To no one's surprise, that permit was approved by the Agency. Unfortunately the letters now looks prophetic.

The impetus for today's letter is the recent Council motion to require Lead Level 2 Observers for Pot-Cod catcher processors operating in the BSAI. (No one checked with AOI about this requirement and whether we had enough qualified observers to meet it; that the North Pacific Program is, or was in any case meant to be, a partnership between the Agency, industry, and the providers is a related but separate matter; perhaps I'll have to write another letter.) And while this requirement, once implemented, will only affect several vessels, the fact that it's a concern for me is evidence of how profoundly the Observer Program has changed since 2013 and the start of the ODDS Program.

Prior to ODDS, Observer Providers provided coverage to a fleet of 30% trawl, longline, and pot vessels that afforded opportunities for observers to gain the experience necessary to qualify for Lead Observer status. After these platforms were subtracted from the universe of vessels we covered, generating Leads in general became more difficult, but in particular the paucity of fixed gear assignments for Level 1 observers quickly led to a shortage of Longline Lead Level 2 observers that has only grown more severe over time.

Our 2016 letters argued that permitting AIS for the 100% coverage program would create two tiers of observer providers, the top tier inhabited solely by A.I.S. as a result of both their contractual partnership with the Government and their access to a wide range of vessels and gear types with which to build the experience profile of their observer corps. All remaining providers now occupy a lower tier, on a different playing field, with access to a narrowed range of platforms.

Here in 2023, the loss of even one or two fixed-gear vessels from the handful of Level 1 fixed-gear assignments that remain further degrades the ability of the lower tier providers, Alaskan Observers, Inc. and Saltwater Inc, to generate Lead Level 2 observers. Sometime soon freezer longliners will have no choice but to seek coverage from A.I.S, given that company's ability to quickly qualify its employees as lead observers on fixed gear vessels making short trips in the ODDS Program. Freezer longliners will have nowhere else to turn.

The unlevel playing field we warned against in 2016 is a fact today, and it's this playing field, and not a fair competition, that informs the current situation. Whether by design or by accident, the Agency's decision to certify A.I.S. did indeed create a non-regulatory avenue for addressing Lead Observer shortages. The lower tier providers don't even have the option of subcontracting from A.I.S., because A.I.S. isn't interested in subcontracting. Instead we are expected to direct vessels to call them so A.I.S. can contract with the vessels directly.

One of the signers of the attached letter in 2016, TechSea International, has since gone out of business, and in testimony before the Council TechSea's Troy Quinlan cited his inability to generate Lead-qualified observers as the source of the company's failure. Subcontracting Level 2 observers from other providers to a greater and greater degree, TechSea's business became unsustainable.

There are other drivers behind the shortage of observers qualified to work as Leads—for instance, shoreside vessels in the pollock fishery moving to EM coverage represent another group of platforms no longer available for Level 1 observer assignments. There is also the long-standing NMFS refusal to credit sampling experience on hake vessels as sampling experience, the impact of which grows as other avenues to generate leads have shut down. Nevertheless, the advent of the ODDS program and the subsequent certification of A.I.S. as a North Pacific 100% coverage provider established the unlevel playing field that is the subject of this letter.

The Council and the Fisheries Management Advisory Committee should do more than simply acknowledge what has resulted from decisions taken years ago—they should propose solutions aimed at improving the situation. At a minimum they should consider ways to address the existing inequity of the system any time coverage requirements are modified going forward. A good place to start would be to consider new ways to certify observers as fixed gear leads before adding still more vessels to the group where those leads are required.

Sincerely,

Michael Lake
President

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