

November 29, 2018

Mr. Simon Kineen, Chair  
North Pacific Fishery Management Council  
605 W. 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

Dr. James Balsiger, Regional Administrator  
NOAA Fisheries, Alaska Region  
709 West Ninth Street  
Juneau, AK 99802-1668

RE: B2 NMFS Management Report - Final 2019 Observer Program Annual Deployment Plan  
D3 Observer Coverage on Vessels Delivering to Tenders - Update  
D4 Trawl EM 2019 Cooperative Research Plan

Dear Chairman Kineen, Dr. Balsiger, and Council Members:

Thank you for accepting comments for agenda items B2, D3, and D4 pertaining to the North Pacific Observer Program. We write to stress the need for higher observer coverage in the Gulf of Alaska (GOA) partial coverage trawl fleet. The Council, the Fishery Monitoring Advisory Committee (FMAC), and the Trawl Electronic Monitoring Committee are working to increase observer coverage while increasing cost efficiencies within the current program. Nevertheless, the proposed observer coverage levels for 2019 for the GOA trawl fisheries are too low. Problems with tender deliveries, prohibited species catch (PSC) sampling and accounting, the observer effect, and compliance monitoring have yet to be resolved with the current *draft* Annual Deployment Plan (ADP).<sup>1</sup>

*B2 Final 2019 Observer Program Annual Deployment Plan*

The North Pacific Observer Program is responsible for providing accurate and reliable data to fisheries scientists, managers, fishermen, and other stakeholders.<sup>2</sup> The National Marine Fisheries Service (NMFS) must “promote domestic commercial and recreational fishing under sound conservation and management principles,” “minimize bycatch and avoid unnecessary waste of fish,” and protect other aspects of the marine ecosystem.<sup>3</sup> However, low observer coverage, especially on high catch volume trawl vessels with high rates of bycatch, and lack of progress addressing concerns with tender deliveries casts doubt on NMFS’s ability to fulfill these duties.

While the final version of the ADP is not available to the public at the time of writing, the proposed observer coverage for trawl catcher vessels is the lowest rate in the last five years. NMFS holds that 15% minimum observer coverage on vessels is adequate and plans to distribute any extra observer days to different gear types based on discard rates or PSC species prioritization. However, it is likely that there

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<sup>1</sup> [https://www.npfmc.org/wp-content/PDFdocuments/conservation\\_issues/Observer/0918FMAC/Draft\\_2019%20ADP%2009.11.2018.pdf](https://www.npfmc.org/wp-content/PDFdocuments/conservation_issues/Observer/0918FMAC/Draft_2019%20ADP%2009.11.2018.pdf)

<sup>2</sup> <https://alaskafisheries.noaa.gov/sites/default/files/observer-prog-summary.pdf>

<sup>3</sup> Magnuson-Stevens Fishery Conservation and Management Act (“MSA”), 16 U.S.C. § 1801(b)(3), (c)(3), and (a)(9)..

will be few extra observer days to distribute and this will not meaningfully increase observer coverage in any stratum. A low estimate will likely repeat for the 2020 ADP if NMFS and the NPFMC fail to increase the observer fee<sup>4</sup>, secure federal funding, and/or develop a separate management strategy for the trawl fleet.

The trawl fisheries that have high bycatch rates are managed with prohibited species catch (PSC) limits. For example, bottom trawl fisheries targeting arrowtooth flounder, deep water flatfish, and shallow water flatfish have quarterly limits to halibut bycatch mortality.<sup>5</sup> These quarterly limits are often met or exceeded, like this year's first and second season for deep water and shallow water species complexes.<sup>6</sup> Since these fisheries are only partially covered, the bycatch limits are managed using estimates from observer data. As coverage decreases, variance in the estimates increases<sup>7</sup> and, with observer effect biases,<sup>8</sup> these estimates are not representative of what is being caught and discarded. Full coverage for trawl fisheries managed with PSC limits is necessary to accurately determine PSC bycatch.

Bycatch of other species is also tracked and monitored using estimates from observer data. For example, sablefish retention on GOA trawl vessels was prohibited April 9, 2018, based on bycatch estimates.<sup>9</sup> Sablefish retention has been prohibited in the past, but the closure occurred earlier in 2018 than in past years' closures.<sup>10, 11</sup> And in the central GOA, trawl-caught sablefish exceeded the quota by 2.5 million pounds and amounted to 212% of the quota.<sup>12</sup> Responsive in-season management, based on present observer coverage rates, is jeopardized because bycatch estimates from partially covered bottom trawlers are extrapolated from 8-10% of the total catch.<sup>13</sup>

The observer effect and compliance complaints add to concerns with low coverage rates and consequent impacts on management. In past annual reports, significant differences in trip metrics from the 'observer effect' were cited, with shorter trips, fewer species caught, and smaller landings.<sup>14, 15</sup> In

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<sup>4</sup> [https://www.npfmc.org/wp-content/PDFdocuments/conservation\\_issues/Observer/0918FMAC/FMACSubgroupUpdateSEP2018.pdf](https://www.npfmc.org/wp-content/PDFdocuments/conservation_issues/Observer/0918FMAC/FMACSubgroupUpdateSEP2018.pdf)

<sup>5</sup> See "Halibut Mortality – Seasonal Combined" reports by year: <https://alaskafisheries.noaa.gov/fisheries-catch-landings>

<sup>6</sup> GOA Halibut Mortality Report through November 17, 2018:

[https://alaskafisheries.noaa.gov/sites/default/files/reports/car150\\_goa\\_halibut\\_mortality2018.pdf](https://alaskafisheries.noaa.gov/sites/default/files/reports/car150_goa_halibut_mortality2018.pdf)

<sup>7</sup> Bradford, E. 2002. Estimation of the variance of mean catch rates and total catches of non-target species in New Zealand fisheries. New Zealand Fisheries Assessment Report 2002/54, 60 p.

<sup>8</sup> At the June 2017 NPFMC meeting in Juneau, a former crew member on a GOA flatfish trawl boat testified that crew members routinely hid halibut bycatch from observers and that it was an accepted, common practice of the fleet to do so in its course of operations.

<sup>9</sup> <https://alaskafisheries.noaa.gov/node/58376>

<sup>10</sup> 2016 closure: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-18/pdf/2016-25138.pdf>

<sup>11</sup> 2017 closure: <https://www.gpo.gov/fdsys/pkg/FR-2017-10-17/pdf/2017-22454.pdf>

<sup>12</sup> [https://alaskafisheries.noaa.gov/sites/default/files/reports/car110\\_goa2018.pdf](https://alaskafisheries.noaa.gov/sites/default/files/reports/car110_goa2018.pdf)

<sup>13</sup> Table 4-3: AFSC and ARO. 2018. North Pacific Observer Program 2017 Annual Report. AFSC Processed Report 2018-02, 140 p., AFSC, NOAA, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115.

<sup>14</sup> AFSC and ARO. 2017. North Pacific Observer Program 2016 Annual Report. AFSC Processed Report 2017-07, 143 p., AFSC, NOAA, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115.

<sup>15</sup> AFSC and ARO. 2018. North Pacific Observer Program 2017 Annual Report. AFSC Processed Report 2018-02, 140 p., AFSC, NOAA, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115.

2016 and 2017, NMFS also reported violations for interference with observer sampling and complaints specific to GOA salmon bycatch.<sup>16</sup> As coverage continues to decrease, we foresee continued issues with representative sampling and bycatch accounting.

#### *D3 Observer Coverage on Vessels Delivering to Tenders*

The Council needs to act in addressing the issues and concerns around trawl tender deliveries. The Council and NMFS have been aware of sampling biases on tender trips since the 2015 and 2016 Observer Program Annual Reports. Furthermore, the tendering loophole, through which vessels may be intentionally delivering to tenders to avoid carrying an observer and/or to avoid a census sample of Chinook salmon bycatch, has been raised multiple times at Council meetings since 2016. However, little progress towards a tangible solution has been made in the last three years. The Council's report states, "issues of high variance in salmon bycatch estimates and the potential for bias in data from observed tender trips persist."<sup>17</sup> This needs to be addressed now with increased observer coverage on trawl vessels delivering to tenders because programmatic changes may take time to implement.

#### *D4 Trawl EM 2019 Cooperative Research Plan*

The FMAC recommended electronic monitoring (EM) on trawl vessels to monitor compliance (full retention of bycatch) and census sampling of Chinook salmon during offloads of tender vessels to plants as a solution to the tendering issue.<sup>18</sup> The Trawl Electronic Monitoring Committee produced a cooperative research plan to develop an EM program for compliance purposes on pelagic trawl pollock vessels,<sup>19</sup> but EM has limits in catch accounting and necessary sampling. For example, observers collect catch composition, sex-length frequencies of target species, otoliths and scales for aging, stomach samples for diet analyses, and halibut viabilities used in calculating discard mortality rates. Therefore, while EM could be used to enhance and supplement monitoring and compliance, it alone is not a replacement for observer coverage. And while EM on pelagic trawl pollock vessels should continue progressing and moving forward, it alone will not resolve the issues around tender deliveries.

This past October Council meeting, the FMAC was tasked with developing strategies to increase observer coverage and decrease costs in the partial coverage category. They are working on market-based solutions and discussing options like observer cooperatives, but the implementation of

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<sup>16</sup> Id. (Table 5-1)

<sup>17</sup> Update: Observer coverage on vessels delivering to tenders  
<http://meetings.npfmc.org/CommentReview/DownloadFile?p=368c253d-7d3b-4284-b636-2ca3b561aaf1.pdf&fileName=D3%20Observer%20Tender%20Issues.pdf>

<sup>18</sup> Id.

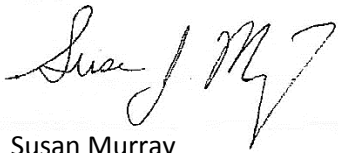
<sup>19</sup> EM for Compliance on Pelagic Trawl Vessels: Cooperative Research Plan  
<http://meetings.npfmc.org/CommentReview/DownloadFile?p=d88046e4-0577-49a3-b350-9a1ada6f4b99.pdf&fileName=D4%20Trawl%20EM%20Coop%20Research%20Plan.pdf>

management solutions could take four to five years.<sup>20</sup> Another possible source for increased coverage is increasing the observer fee, but that again will take time to implement and changes would not be seen until 2021 at the earliest.<sup>21</sup> The vessels participating in the trawl EM cooperative research plan will be fishing on an exempted fishing permit through 2020. The marine environment is changing and it is unforeseen what the fishing landscape will be in the future. More observer data is needed now.

Full coverage on trawl vessels resolves concerns of catch estimate variance, bycatch monitoring, observer effect, and biological sampling needs. Full coverage daily rates are also less than partial coverage daily rates and increase cost efficiencies.<sup>22</sup> We have requested NMFS set aside supplemental funding for the next three years to increase observer coverage now while programmatic changes are developed and implemented. This short-term and necessary solution would aid in maintaining accurate data collection during development of a long-term solution that the Council predicts will require, “at least three years to analyze, review, and implement.”<sup>23</sup>

Both observers and electronic monitoring are essential to successful fisheries management. Our oceans face new threats from climate change; and important Chinook salmon, Pacific halibut, and Pacific cod stocks in Alaska are in decline; these changes necessitate more observer coverage than what is currently proposed for 2019 and what is likely to extend to 2020. NMFS should prioritize short-term funding for increased observer coverage and a long-term solution toward a full coverage observer program for GOA trawl vessels.

Sincerely,



Susan Murray  
Deputy Vice President, Pacific  
Oceana

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<sup>20</sup> From this meeting, report forthcoming: [https://www.npfmc.org/wp-content/PDFdocuments/conservation\\_issues/Observer/1118FMACSubgroup/FMAC%20Subgroup%20Agenda%20118.pdf](https://www.npfmc.org/wp-content/PDFdocuments/conservation_issues/Observer/1118FMACSubgroup/FMAC%20Subgroup%20Agenda%20118.pdf)

<sup>21</sup> February 2018 Fee Analysis Update: “Raising the Partial Coverage Observer Fee Planning update”

<sup>22</sup> Section 2.4.3, Alaska Fisheries Science Center and Alaska Regional Office. 2018. North Pacific Observer Program 2017 Annual Report. AFSC Processed Rep. 2018-02, 136 p. Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., 7600 Sand Point Way NE, Seattle, WA 98115

<sup>23</sup> North Pacific Fishery Management Council letter to Mr. Oliver requesting supplemental funding: [https://www.npfmc.org/wp-content/PDFdocuments/conservation\\_issues/Observer/2018Letters/101818\\_NMFS\\_re%20obs%20funding.pdf](https://www.npfmc.org/wp-content/PDFdocuments/conservation_issues/Observer/2018Letters/101818_NMFS_re%20obs%20funding.pdf)