

## WHAT IS THE ASSOCIATION FOR PROFESSIONAL OBSERVERS?

**Mission Statement** The purpose of the APO is to be an advocacy group for professional, certified observers working in Alaska, the North Pacific Ocean and the Donut Hole. Our primary goal is to provide a voice for the observer in the political process on those issues which can enhance the working climate for professional observers.

**Goals and Objectives:** \*Create a national association for all observers throughout the United States, including private, state, and federally supported observer programs. \*Formulate an "Observer Bill of Rights" that applies to all observers independent of their particular program or region. \*Develop a national vessel safety protocol for vessels that carry observers. \*Work to standardize the inconsistencies in Federal law regarding observer status, insurance and duties. \*Initiate a partnership with the administrative agency and scientific community to enhance biological sampling protocol and data quality. \*Play a more integral role in identifying appropriate insurance levels for observers, facilitate discussion of particular coverage levels between the insurance industry and the employer, and create a binding contractual agreement to ensure oversight of carrying appropriate insurance coverage by the employer. \*Monitor regulatory amendments pertaining to the Fishery Management Plans at the regional and Congressional level and comment on the ramification of these proposals for potential impact on observers duties or the observer program. \*Increase participation and lobbying efforts at the North Pacific Fisheries Management Council. \*Develop a whistleblowing and grievance procedure through the appointment of an observer liaison to the particular administrative agency. \*Increase publication frequency of the *Mail Buoy* from quarterly to monthly and expand on number, quality, and scope of articles. \*Continue to support efforts for increased wages and benefits to a level commensurate with that of a professional field biologist.

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# *the Mail Buoy*

A publication of the Association for Professional Observers

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### COUNCIL UPDATE:

**JPA ABANDONED** by Kim Dietrich

At the June Council meeting in Dutch Harbor NMFS and the Pacific States Marine Fisheries Commission (PSMFC) announced they have stopped efforts to develop a Joint Partnership Agreement (JPA) due to "unresolvable legal issues". [1]

NMFS & PSMFC had worked together to develop the JPA for over a year. "The intent of the JPA was to provide observer procurement and placement services that would be consistent with the broader goals of collecting high quality observer data, providing adequate observer compensation and working conditions, and maintaining efficient deployment of observers within the groundfish industry[1]." See 12/97 MB issue for more details on the JPA.

Two legal issues impeded progress on the JPA through the spring--Service Contract Act (SCA) wages and PSMFC exposure to lawsuit and indemnification. During the last days of the Research Plan, NMFS staff informed the Council that any contractual arrangement between NMFS and another entity to provide observer services would be subject to the SCA's requirement that absent a collective bargaining

agreement, a contractor must pay observers no less than the wages and benefits found by the Dept. of Labor (DOL) to prevail in the locality where the services are to be performed. In 1996 the DOL determined a base salary for observers in Alaska to be similar to GS-5 pay, or about \$10/hour. This level of base pay is significantly higher than that currently provided to observers (even with the AFU negotiated contract). It was originally believed that SCA's requirement would not apply under the JPA, but additional legal guidance differed.

While continued development of the JPA under the SCA wage provisions is possible, the costs of observer services under the JPA would increase beyond those negotiated under AFU contracts and those envisioned by the Council.

Under the JPA, PSMFC would have been responsible for providing observer services to the industry and for deploying observers onboard vessels and at shoreside facilities. NMFS also envisioned that PSMFC would ensure that observers be available to NMFS through the completion of the debriefing process. The envisioned role for PSMFC would increase its exposure to lawsuit. PSMFC determined this exposure to be too high. Furthermore, NMFS could not sufficiently indemnify PSMFC against legal challenge because 1) no statutory authority for such indemnification exists and 2) the Anti-Deficiency Act precludes open-ended indemnification. In simple language this means if PSMFC would be accountable for it's mistakes or inability to deal with situations beyond their control. For example, a vessel might sue PSMFC for the cost of any lost sea time, if PSMFC was unable to provide an observer.

This fall, NMFS will go back to the drawing board in an effort to design an observer program to replace the existing pay-as-you go scheme. The Observer Advisory Committee will meet 9/24-25 to discuss the various options available. See also article on 1999 Proposed Regulation on page 2.

[1] Quotes from a letter dated 6/1/98 from Steve Pennoyer, NMFS Regional Director to Richard Lauber, Council Chairman

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**TERESA TURK RESIGNS FROM THE AP AND OAC—ACUNA CHOSEN FOR OAC ALTERNATE**

Teresa Turk, one of the founding members of the APO, has resigned as a member of the Advisory Panel (AP) and as an alternate delegate of the Observer Advisory Committee (OAC). Teresa states in her resignation letter, " My tenure on both committees has been extremely important in my career and personal development. I feel very lucky and fortunate to have been given this opportunity to participate in the management of our national marine resources. "

Her resignation of these posts is a result of her new employment status with the National Marine Fisheries Service-Northwest Fisheries Science Center. As a member of NMFS, she can no longer participate on these committees and would not be adequately serving the observer constituents if she remained. The APO congratulates Teresa on her new position. I, personally, find it impossible to express my gratitude for the time and energy she has donated to the APO; the organization would have dissolved without her.

The APO recommended both Erika Acuna and Liz Mitchell for the OAC seat. Chairman Lauber chose Erika Acuna to be the alternate for the APO seat on the OAC. The replacement decision for the AP will not be made until the December Council meeting. AP appointments are for 1 year. Also, the APO recommended both Ms. Acuna and Ms. Mitchell for the AP seat. We need your help to insure the continued presence of an observer representative on the AP. Please sign and send the letter addressed to Chairman Lauber which is enclosed with the *Mail Buoy*.

<b>OBSERVER PROGRAM UPDATES:</b>
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**Proposed Regulations for 1999-2000 Observer Program to be Published (KD[1])**

Since the JPA was abandoned and until some new infrastructure for the observer program is designed and implemented, NMFS is left to work within the existing program to make what improvements they can. In a sense, the observer program of the near future is going to look like the observer program of the present. Indeed, some of the problems that the JPA was to have addressed--for instance, observer compensation--have been addressed within the confines of the current program (observer wage concerns in particular were addressed by observer unionization).

The tortured histories of the JPA and the Research Plan (an earlier make-over of the observer program that was similarly stillborn) are instructive. Immense amounts of time and effort were devoted to forming these plans, time and effort that did not go into managing the current program. The time line for implementing a new infrastructure for the observer program is, at worst, an eternal one. At best any fundamental changes are several years away.

Observers with ideas for improvements to the Observer Program should send written comments to the NMFS Alaska Region. The Alaska Region has already received 15 letters from observers and the APO addressing regulatory changes for the 1999 Observer Program. In summary, the letters suggested:

1. Establish a minimum 65% retention rate for observers in the Domestic Groundfish Observer Program (DGOP). The ADF&G Shellfish Observer Program has required 65% prior shellfish observers be deployed on an annual basis for several years and no crab vessels have ever been prohibited from fishing due to an observer shortage even if ADF&G staff had to be deployed. This is the minimum stated by the current contracts between the Alaska Fisherman's Union and the current certified contractors although there is no guarantee it will remain; four of the five contracts will be re-negotiated for the 1999 season. Some of the contractors already maintain a higher retention rate; it is not impossible. This regulation would save tax dollars since less training would be required of NMFS and/or the University of Alaska's Observer Training Center (OTC). Staff time saved could be utilized in a more efficient and productive manner.
2. Add a regulation stating contractors not distribute personal information such as resumes of observers to the fishing industry. Resume requests have been a contract negotiation factor for one fishing company in particular. A contractor's unwillingness to distribute resumes can result in a threat for a vessel to change contractors. NMFS Observer Program policy, as per a memo to contractors dated April 15, 1994, is to request the contractors not release this information without the written permission of the observer. The APO finds this unacceptable. In addition to this practice being an invasion of privacy, release of personal information by contractors potentially compromises NMFS' ability to meet the Observer Programs' objectives and obligations. If observers feel that fishing company personnel can contact them or their family directly, discouraging the observer from making reports which might lead to enforcement action, observers are likely to feel pressured to not file such reports. NMFS receives copies of resumes/transcripts and is responsible for determining if the applicant complies with the experience and education requirements in regulation. Industry doesn't need or have a right to any personal information.
3. Regulations already state that observers have the right to refuse a vessel for safety reasons but this does not guarantee an observer will utilize this right even if it's warranted. If an observer refuses a vessel for safety reasons related to mechanical problems or related to the behavior of vessel personnel (i.e. drug use or unsafe deck practices), the reality of the situation is that observer gets replaced with a less fussy observer and the refusing observer is likely out of a job. There is significant disincentive for refusing vessels. If an observer refuses a vessel, there should be NMFS Observer Program notification and NMFS staff should go to the vessel immediately to evaluate the situation. Vessels should not be held up without cause. However, **NO observers should be allowed to ride the vessel until the problem is resolved.**
4. There are currently no standards in the regulations for observer housing at shore-based plants while there are extensive requirements for vessels. Minimum requirements would include: a) a dry, clean, quiet room, b) communication equipment such as a phone or VHF radio. Plant observers need to be contacted regarding offload schedules and vessel observers need the ability to easily contact plant observers for assistance; and c) transportation to the plant if the plant is more than one mile away from housing facilities. Observers in Kodiak have been provided substandard housing far away from the work sites. Data collection suffers if the plant observer misses offloads or is unable to assist a fellow observer due to logistic problems.
5. Modify regulations so that one observer is never covering more than one 100% coverage plant and not more than two 30% coverage plants.
6. Sample station guidelines, not regulations, need to be established for all vessels (not only MS-CDQ). An appropriate sample station should include a small table, adequate light, a place to hang a scale or position a platform scale, adequate space, and access to a fresh or salt water source. NMFS should notify contractors when they feel a vessel has sampling problems that could be addressed by the contractor. A summary of observer sampling problems could be provided to contractors each year for it's contracted vessels.
7. Add a regulation stating any NMFS Observer Program staff may be deployed at NMFS discretion on any vessel at any time in lieu of or in addition to their regular observer.

Please provide input to Steve Pennoyer, Administrator for Sustainable Fisheries, NMFS Alaska Region, 709 W. 9<sup>th</sup> Street, P.O. Box 21668, Juneau, AK 99802 and carbon copy the APO.

[1] The first two paragraphs were taken from AOI's July, 1998 newsletter. AOI's full article can be found on their website.

### **ENFORCEMENT OFFICE OPENS IN ANCHORAGE.**

NMFS Special Agent Todd DuBois will be focusing on observer issues and cases from his new office on the 5th floor of the Anchorage Federal Building (Room 517), right across the street from the OTC. His direct phone number is (907)271-3031 and new address is "NOAA/NMFS Office of Enforcement, 222 West 7th Ave., Box 10, Anchorage, AK 99513-7577". NMFS Enforcement is continuing to process observer related cases (over 180 complaints/reports received between 12/1/97 and 5/31/98). Mr. DuBois is hoping to make a significant dent in the pending complaints by the end of the year. Please feel free to give Todd a call if you have any questions or concerns that you feel need enforcement attention.

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### **NEW NMFS OBSERVER PROGRAM OFFICE**

The observer program will open a new office located on the 5<sup>th</sup> floor( rm. 542) of the Federal Bldg. across the street from the OTC. Todd Loomis and Troy Martin, both former observers, were recently hired to staff this office. Todd Loomis was also on staff at the Seattle office. The office will be a fully integrated part of the observer program, completing inseason advising, debriefing, and implementing the Multi-Species Community Development Quota (MS-CDQ) program that will go into effect October 1, 1998 (see article below). The office should be in place in September, and able to perform debriefings as early as the end of B-season.

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### **MS-CDQ PROGRAM BEGINS 10/1/98** by Kim Dietrich

Multi-Species Community Development Quota (MS-CDQ) fisheries are due to begin October 1, 1998. Prior to the fall of '98, the only groundfish CDQ fishing has been for pollock. The program has expanded to include fisheries for all other groundfish species (and crab managed by the State of AK). Also, the expansion comes with new observer requirements for the vessels involved.

As in the case in the pollock CDQ fishery, most catcher processors (cp's) in the MS-CDQ fisheries will be required to carry two observers (longline cp's can, in some circumstances, escape the dual-observer requirement). What is new here are the qualifications observers working on these vessels have to meet. NMFS has established certain experience levels that observers must meet before they can work on MS-CDQ vessels. In addition, those observers who satisfy the experience requirements must attend a specialized 5-day training before being deployed to MS-CDQ fisheries.

Last September, the APO made public comment on the Proposed Rule to establish the MS-CDQ Program. The letter praised any increase in observer training (if it eventually benefited all observers) and praised the mandatory sampling station requirements. At the same time the APO voiced concerns with over-restrictive qualifications to be a lead CDQ or non-lead CDQ observer, decreasing an observers' flexibility to work (and contractors decrease in logistic control) by overspecialization of the observers so that an observer who qualifies to be a lead CDQ observer would be reserved for only that kind of assignment, NMFS' potential inability to oversee such a large program, and excessive restrictions on sampling (i.e. only 3 hauls/day). In the Final Rule, NMFS modified the qualifications so that ALL CDQ observers must have a minimum of 60 days of data collection. To qualify to be a Lead CDQ observer on a c/p or mothership, you need to have observed for 2 cruises and at least 100 hauls on a c/p or mothership. To qualify to be Lead CDQ observer on a catcher-only trawler, you need to have observed 2 cruises and sampled at least 50 hauls on catcher vessels. To qualify to be lead on a non-trawl catcher, you need 2 cruises of at least 10 days each and sampled at least 60 sets. To qualify to be lead at a shoreside plant, you need at least 30 days shoreside observer experience.

NMFS did not change anything in the final rule regarding observers potentially suffering financial consequences. It appears that NMFS is under the impression that CDQ observers will be in more demand and thus, will get paid more. As it stands, there is nothing in the AFU contract regarding pay increases if you're a "lead" and your contractor could choose to not place you on an Olympic fishery vessel to "save" you for CDQ fishing. You could loose up to a month of work this fall. Of course, your alternative is to inform your contractor if they don't put you to work, you'll go work elsewhere. (Nice choice!)

NMFS was able to hire 5 new staff at the Observer Program level so hopefully, if you encounter problems, they'll be there to support you. Monitoring of the MS-CDQ (including target, bycatch and PSC's) depends completely on observer estimates and haul-by-haul sampling data. There is potential for great conflict if a vessel doesn't agree with your numbers.

The Final Rule deleted the 3 haul/day sampling restriction, but retained the 12 hour work day language.

At the beginning of the summer, the APO wrote a second letter to the Observer Program stating our recommendation that NO observers commit to work MS-CDQ unless NMFS added at least one additional training session. Originally, there was only one training scheduled in September which would preclude any qualified observers who wanted to be trained from participating in B-season pollock or 3<sup>rd</sup> trimester P. cod. NMFS added an additional training in mid-August to accommodate our request for a pre-B-season training. [Thank you] The next MS-CDQ training is scheduled for September.

In addition to the two observer requirement, the MS-CDQ program requires the vessel have on board a NMFS-approved flow scale (for trawlers) so that all catch is weighed, the vessel must maintain the flow scale (i.e. with daily tests) and they must provide the observer with a NMFS-inspected sampling station that includes: 1) a minimum work space of 1.8 m X 2.5 m; 2) a sampling table (.6 m deep X 1.2 m wide and must be > 0.9 m and <1.1m high). The entire surface area must be available for use by the observer; and 3) an electronic motion-compensated platform scale with a capacity of at least 50 kg located within 1 m of the observers sampling station. The observer must be able to stand upright in the area in front of the table and scale.

The NMFS Alaska Region has not yet approved all of the 1998-2000 MS-CD plans, but the following vessels (by type) have applied for MS-CDQ fishing: 11 longline c/ps, 13 trawl c/ps, 2 longline catcher vessels over 60 ft, 25 longline c/v under 60 ft, and 12 trawl c/v over 60 ft. The majority of the catcher vessels are either halibut/sablefish and won't be doing MS-CDQ fishing in 1998. Pollock CDQ remains under current regulations until 1999. The AK Region expects that the plans and vessels will be approved within the next couple of weeks. The list of eligible vessels will be posted on the Alaska Region home page under Sustainable Fisheries, CDQ Program Information.

(For a copy of the Final Rule, see Federal Register, Vol.63 (107), June 4, 1998. Contact the APO if you're interested in our public comments.)

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**From the desk of Debriefee Doug Limpensel, NMFS Groundfish Observer Program...** I would like to acknowledge and send personal thanks to several observers for their time and the insight they have provided from experiences on the longliners they have served upon. Hopefully, I have incorporated their experiences, as well as my own, in the writing of the longline section of the new Groundfish Observer Manual. Thanks to the following... Steve Evavold - DCI; Mike Todd - AOI; John Anderson - AOI; Gillian Stoker - AOI. Any additional input or information that observers feel would be pertinent would be greatly appreciated for future manual editions.

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**Sperm Whale Re-sightings and a Call for Comments on Deterrents Used by Longline Fishermen** by Liz Mitchell

I would like to thank all of the observers who have participated in the Sperm Whale Project. I was very excited to receive from Scott Hill the photos from observers Janelle Majewski, Marie Piazza, Anne Vanderhoeven, Christopher Obert, Chad Leedy and the video from Steve Evavold. I am quite pleased to announce that at least 3 individual sperm whales have been re-sighted in the Gulf of Alaska using observer photos since 1995.

One whale was seen in 1995 southwest of Middleton Island in the central Gulf of Alaska and re-sighted within 30 miles of that sighting in 1997. The second individual was seen near Middleton Island in 1997 and re-sighted in SE Alaska near Sitka. The third was seen in 1995 and this year three times (!) by observers in the Sperm Whale Project. All re-sightings were made by matching photographs.

I will be making a catalogue of individuals by the end of this year for NMML in Seattle. It won't be something that observers would take out to sea because all re-sightings have to be matched with photographs for confirmation. As photos come into the NMML, they will be matched or added to the catalogue. This will greatly aid in following the individuals which are interacting with the longline vessels. Needless to say, the potential is quite grand if observers

(inside and outside of the Sperm Whale Project) continue to take photographs of identifiable marks such as dorsal hump, head scars (this is particularly useful), or the flukes. If you take pictures of the flukes, try to note whether the photo was taken from either the dorsal or ventral side. I usually take a series as to not leave any doubt and to get any marks on the tail stock. It's useful to separate individual whales by shooting something different between series(deck, crew). Also, if you can get the head and dorsal of the individual this makes the mug shot complete! One last thing, please note the set number of the photo so I can get a position. Please leave your mailing address with Scott Hill at NMML or myself and let us know how much the duplicate photos cost so that we can reimburse you.

In addition to sperm whale interactions, we are interested in any deterrent used by the fishermen or any unusual behavior or occurrence. Scott Hill and I would especially like to hear which deterrents work and which do not.

I have been in contact with some researchers and fishermen regarding testing deterrents on sperm whales and it appears that any sort of acoustic device will not work long term. The best advice that I've received regarding deterrents was for the fishermen to drop their gear as soon as they see the sperm whales coming (i.e. not let them have a single fish). This takes a concerted effort on behalf of the fishermen and may be difficult for them to accept. Some may not think many fish are being taken. This may be true for now. However, it appears from observer reports and those of fishermen that the situation is getting worse. If more whales are allowed to improve their skills, it could turn into a monster situation similar, if not worse, than that of the killer whale situation in the Bering Sea and Aleutian Islands.

Another observer reported a fisherman throwing bleach in the water to deter killer whales. It was enough to drive the whale(s) away temporarily, which to me says that the whale came in contact(which falls in my definition of a take). Polluting the ocean with toxins is not acceptable.

Any comments from observers about deterrents used would be most welcome. At this stage, the best deterrent yet seems to be dropping the gear and waiting for the whales to go away. Remember, if you observe any variations which seem to work, Scott Hill and I would be interested in hearing about this. Please feel free to call me or e-mail me (or write). On your future black cod/halibut trips feel free to pass on my name and number to longline fishermen who are interested in working out a solution (resuming whaling is not an option!). I should be available throughout the winter and next spring. Thanks again very much for everyone's participation in the project. [Contact info: Liz Mitchell, P.O. Box 933, Eugene, Oregon 97440, Tel: 541/338-7939; e-mail: [emitch@efn.org](mailto:emitch@efn.org) or Scott Hill, National Marine Mammal Laboratory, 7600 Sand Point Way N.E., Seattle, Washington 98115-0070, Tel: 206/526-4048, e-mail: [Scott.Hill@noaa.gov](mailto:Scott.Hill@noaa.gov).

## **UNION ISSUES:**

### **LET THE NEGOTIATIONS BEGIN!--by Mark Coles, AFU**

It is hard to believe that nearly a year has gone by since we completed negotiations with the last of the five contractors. The time has come though to renegotiate four of those contracts. The four contractors have been notified of the AFU's desire to begin negotiations. So far the contractors have not agreed to any dates to begin the process. We would like to get started. We would like nothing better than for negotiations to go quickly and smoothly, but the contractors must cooperate in order for that to happen. We need your support to convince you employers that cooperating with the union is in their best interests. It truly can be a win for all parties.

Alaskan Observers, Inc. is the only employer with a long term agreement with the AFU. They wisely signed a three contract which offers stability to AOI, their clients and to their observer employees. The AOI contract includes, among other things, ten dollars per day wage increases in all grades each year as well as a health and welfare contribution of \$50 for each 30 days of deployment in 1999 which increases to \$60 for each 30 days of deployment in 2000. We believe the other contractors must agree to contracts that at least meet the standards established in the AOI contract. The AFU will be insisting as such at the bargaining table as well as proposing other improvements. **It is equally important that you let your contractor know you expect a contract equal to the AOI contract!** Let them know you support the Union. Let them know

you want them to deal fairly with the Union. **Most importantly let them know you expect a contract and won't work without one.**

If you haven't received a card in the mail from the AFU, you should shortly. It provides the AFU's phone and fax numbers and calls observers to get involved in negotiations. It is important we have an observer presence during the negotiation process. It is one thing for an employer to negotiate solely with a representative of the union. It is quite another thing for an employer to go through the process while looking into the eyes and hearing the voices of their employees. But, even if you can't participate in person please call, fax or write to us and your employer. Let both of us know what you want. Let the employer know you want it through the Union.

On other fronts the AFU will be submitting a request to the U.S. Department of Labor (DOL) within the next couple of weeks requesting the DOL to determine whether observer work should be covered by the Service Contract Act (SCA). The SCA provides labor standards for the protection of employees of contractors or subcontractors furnishing services to or performing maintenance for federal agencies. Such labor standards include prevailing wages and benefits for a specific geographic area. Our belief is the work done by observers is done in service to the NMFS and should be covered by the SCA. The union will monitor the situation and report the outcome to observers as soon as a determination is made.

### **APO Suggested 1999 Contract Goals** by Kim Dietrch

As negotiation time draws near, many observers may be wondering what's in store for 1999 contracts. AOI currently has a contract through 2000 but has voiced a willingness to open negotiations if other contractors agree to some changes that will benefit observers. The other four contracts are open to full negotiation. Below is a brief summary, by contractor, of the changes proposed. If you strongly agree or disagree with any points, or if you have additional comments, please contact Mark Coles. It would be beneficial to inform your contractor of your opinions as well. Sometimes during the negotiation process the contractors claim not to know anything about certain issues/complaints because they haven't heard from their employees. The APO would like to thank all observers who provided suggestions and input regarding 1998 contracts.

### **SWI/DCI**

- Increase cumulative daily wages to 1999 AOI rates. Those rates are \$100, 120, 130, 145 and 155 for Pay Grades 1-5 respectively. Pay Grade is based on deployed days.
- No hostage pay (referred to as debriefing pay in the contract). All pay in full at end of monthly pay period.
- Lodging during debriefing-up to 5 days regardless of deployment length and more if circumstances warrant. (Refer to paragraph 6.03)
- Meals during debriefing-up to 5 days regardless of deployment length and more if circumstances warrant. (6.04)
- Increase Anchorage meal allowance to \$25 and Kodiak to \$45 (6.04).
- Increase % prior deployed to 75% (3.01) and add pay grade of observers deployed to list of items reported to AFU (3.03).
- Pay (\$60/day) during wait between end of briefing and actual deployment
- Pay for physicals & drug screening (5.01)
- Gear allowance (6.06)-Standardize to match AOI's contract. 7.04-Too many options. Option #4 for both but need to modify 6.06 for trainees
- Combine shellfish & groundfish days to determine pay grade (7.02).
- No 50% pay for riding vessel to/from AK to Seattle. Delete paragraph 3(7.05)
- Delete paragraph 4(7.05) OR clarify that the 4 days is between each vessel is not cumulative for contract or year
- Delete 'most favored nations' clause (1.05)

- Dues taken from paycheck if observer signs the check-off form.
- Modify 3.11 on subcontracting
- No resumes released to industry
- Add \$50/month contribution for health insurance (as in AOI's contract)

### **NWO**

- Increase cumulative wages (daily +debriefing) to 105, 125, 135, 140 and 160 for pay grades 1-5 respectively.
- All pay in full at end of monthly pay period is preferred by most observers. If current system continues, raise daily rate paid at end of each month to \$97/day up front.
- Add paragraph regarding a commitment/obligation to hire 75% priors.
- 5.01—delete last sentence
- Pay (\$60) during wait between end of briefing and actual deployment
- Change “employee” to “employer will pay cost of physicals” (9.01)
- Add language to include new trainees for gear allowance (11.01)
- 13.01—no annual maximum for briefing days.
- Full pay for all days on vessel—delete 50% pay for riding a vessel to/from AK(13.02)
- Increase per diem rates in Anchorage to \$25 and Kodiak to \$45 (14.01)
- Shellfish and groundfish deployment days are combined for purposes of determining pay grade (16.02)
- Delete most favored nations clause (Article 22)
- No resumes released to industry
- Dues taken from paycheck if observer signs check-off form

### **FOA**

- Full monthly pay OR add \$10/day to 1998 up front rates and debrief pay would remain the same (paid upon contract completion) (15.04)
- Increase % retention to 75%
- Change definition of ‘deployed day’ for purposes of pay to ‘the day you leave briefing site until the day you return to debriefing site’
- Pay during wait between end of briefing and actual deployment
- Point of hire will be Seattle unless employee is an AK resident/hire(8.01)
- Full physical paid for by employer (9.01)
- No 50% pay for riding vessel to AK (16.03-16.04)
- Confirm language stating shellfish and groundfish days are combined for determination of pay grade (15.02)
- Increase contribution to health insurance to \$50 (17.01)
- Delete most favored nations clause
- No resumes released
- Dues taken from paycheck if observers sign check-off form

### **AOI**

- Pay (\$60) during wait between end of briefing and actual deployment
- Delete most favored nations clause
- No resumes released
- No 50% pay for riding vessel to/from AK (16.03-16.04)
- Increase Kodiak per diem to \$45

Note: I apologize for the redundancy but I feel it illustrates how much work is needed on each of the contracts. Also, due to the diversity in responses to the health questionnaire the AFU will negotiate only for a monetary contribution added to monthly pay instead of a health plan. The AFU's current plan costs approx. \$1380/year and is VERY basic.



**NEGOTIATION MEETINGS TO CHANGE CONTRACTS—My 1998 Experience—Editorial** by  
Liz Mitchell

Next month observers and contractors are asked to come to Seattle to participate in 1998 contract negotiations. Although there have been some great improvements there are still confusing terms and inconsistencies in the contracts.

1. **Hostage pay:** In my opinion, this is an unacceptable labor practice. We need our entire wage paid on a regular basis. In 1997 only 2 contractors held back pay; however, we lost some ground due to the most favored nations clause.
2. **Clarity of the terms:** Many of the union contract terms are just as ambiguous as prior contracts. The AFU/DCI contract states: "If an Observer has been unassigned for four days the Company may give that Observer the choice to debrief or to receive pay at one/half the daily rate for their grade." The AFU's original intent was for 4 days between each assignment. However, DCI's interpretation was 4 days per contract. On a 4-5 boat contract, there are quite a number of waiting days between vessels and I am required to be "ready and available to go to work on short notice." Fortunately, I had made an addendum to my DCI contract which specified I would be paid 4 full-pay days between all vessel assignments. My addendum also stated I would not be subject to hostage pay.
3. **Food reimbursement:** DCI reimburses us for \$10 per day while in Anchorage. We all know how expensive food is in Alaska and \$10 is not enough. Ten dollars doesn't go very far at a convenience store in Alaska--you can blow your entire allowance on a box of cereal and a gallon of milk. What about the 4 food groups? While en route to our vessels, the contract says we get \$45 in some ports. If I arrived at my vessel in the evening, I may not get reimbursed for breakfast and lunch.

Personally, I don't want to keep every rinky-dink receipt to get compensated for \$45 in some ports, \$40 in others, and \$20 per day in Anchorage(only \$10 if staying at a place that has a kitchen, but no store near by). If I'm still in port the day after a travel day and the vessel has groceries and a stove to cook on, I'll eat on the boat. Otherwise, we should be reimbursed for another day of food. I don't want every work-related dollar I spend open to discussion. Let's make it clear.

**MAKE IT SIMPLE!** Give me a flat rate per day for all deployment days including between vessels and including the day of travel to and from the vessel. Give me a flat rate for food expenses for days unassigned.

The language of the 1998 Contract leaves room for too much interpretation by both the Contractors and Observers. **MISCONCEPTION:** The Contractor Company is completely bound by the Union Contract. **FACT:** Yes, they are bound by the contract but the Contractor can offer the Observer more than the contract states. The contracts are the MINIMUM that the Union agrees to. The Observer and the Contractor are allowed to write an addendum to the Union Contract if the current one is unsatisfactory. It is legal, as long as both parties sign it attesting to their mutual agreement and it meets the AFU negotiated minimum. If you have any questions about your contract, and the legality of any addendum you may write, ask Mark Coles, our Union representative.

These are some of the points I would like to bring up during the 1999 contract negotiations. Perhaps you have additional issues. Observers and Contractors are encouraged to come to Seattle in September for discussion and hopefully make this whole process easier in the future on everyone. Call Mark Coles at 206/441-3425 for the exact dates and times. Hope to see you all there. United we stand, parted we fall, so pick up your fannies. Come one, come all!

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## **We've Come A Long Way But We're Not There Yet-Editorial** by Kim Dietrich

As I contemplate my next groundfish contract departure I am both anxious and elated. Anxious because this is my first full (i.e. 3 months) contract in over 5 years—I hope I can hack it. Elated because I'll be working under the best observer contract I've had in over 6 years and because I'll be working with a much improved observer program (more staff, an increased focus on collecting quality data, etc). Some of you may feel that the AFU negotiated contract and the actions of the APO aren't necessary or that they haven't changed your life as an observer. I personally feel very strongly that they have.

It is worth distinguishing between the functions of the AFU and the APO. The AFU is your labor ally, while the APO operates in the political realm. The roles each organization play are complementary, but they are not identical.

The AFU's accomplishments are easily highlighted. The AFU contract has increased observer wages by 20-30% depending on your level of experience. It has established a contribution toward health insurance in 1999 (in only one contract so far). It has re-established pay for training/briefing/debriefing. It has created a gear allowance (NMFS issued gear in the past but the cost was passed on to the observer in recent years). The contract has given you an ally with some power if you are wronged by your employer; and in theory, it has created a level playing field for the contractors so they can compete based on their service to industry NOT on their ability to cut observer wages and benefits or maintain a high attrition rate to keep profits up. A contractor's service to industry should include supplying reliable, quality, professional observers who know the job well and are prepared for all at-sea situations.

With the contract also comes an increase in responsibility for observers. If you're paid professional wages and want to be treated like a professional, I believe you better act like one. I expect everyone to be giving 110% out there. Be safe but be diligent. You are not only representing yourself on a vessel but also me and every other observer. Observers are also the liaisons between the fishers and NMFS. In many ways our job is one of diplomat and educator. You should be willing to answer all of those fish & management types of questions, or to know where to send someone to get answers you don't have. If the industry understands your job and the data, they will be more likely to assist (or at least not impede) the collection of quality data. Also to be fair to the contractor's, I suggest that if you intend to negotiate an individualized contract addendum with your employer, it would be appropriate to do so before you commit to work, not a day or two before you start briefing.

While the AFU's accomplishments are familiar to most, if not all, observers, the APO's accomplishments are probably less known. This doesn't make them less important. The APO has been working on improving the working conditions and rights of observers which the AFU doesn't have the legal right to do. At the Observer Program level, many APO members have met with NMFS observer program staff or written letters voicing their concerns with the program and suggesting improvements. Change is frustratingly slow but it does occur. In a way, the increase in communication between observers and NMFS staff that has occurred since the inception of the APO is itself valuable, since it inevitably makes the staff more attentive to observer needs and concerns.

At the NMFS Regional level, the APO has initiated several successful letter writing campaigns to change or modify federal regulations that affect observer's job duties and/or observer well being.

The APO has been active at the Council level as well. The APO has secured a seat on both the Advisory Panel and the Observer Advisory Committee. In the past, the Council acted on matters without ever considering observers and their concerns. The fact that this is no longer the case is in itself a major accomplishment. APO members (>15 observers) have testified at several Council meetings over the past 3 years. Even now the APO is pressing for changes and improvements to the program. For instance, I have proposed an FMP amendment making

contractors bound (through a no-cost contract) to the NMFS so that: 1) Service Contract Act wages will apply to observers (guaranteeing our wages if the AFU is ever voted down); and 2) NMFS will have some REAL power to evaluate the performance of the contractors (if they certify contractors, they should have the right to decertify them).

Clearly, the AFU through its contract has made significant improvements in observer labor conditions, and the APO through its advocacy on behalf of observers has given us a voice in policy matters that we never had before. Unfortunately, the gains we've made are not secure on either front.

Observers who are new to the program should know their input and involvement is welcome by the APO. Indeed, for the APO to remain vital and continue in its efforts, we need more, not less, participation by observers. The APO has made impressive accomplishments but has the potential to accomplish much more. For instance, in addition to maintaining and strengthening its advisory role vis-a-vis NMFS, I would like to see the APO develop an advisory role vis-a-vis the fishing industry. It is possible for us to work with both government and industry. I would like to see observers nationwide learn from one another and use our collective experience to improve all U.S. observer programs. I'd like to see observers take pride in their job. It is one of the most challenging (both physically and psychologically) and important field biology jobs that I've had. The APO is YOUR organization. Nothing gets done unless an observer takes the initiative to do it.

Vigilance is definitely required, since the compensation gains we've made will quickly erode without it. Just because one contractor--AOI-- has a three-year contract doesn't mean that observers can be complacent. The other four contractors are still resisting the union by not coming to negotiations early. Urge your contractor to start negotiating immediately! The contracts between the AFU and these contractors need to be completed by December 1 so that observers have a chance to vote on them this year. We all have to understand that our union status could be put into jeopardy at some point by a decision on the part of one or more contractors to deploy observers without reaching an agreement with the union. We have to be prepared to meet such a challenge if it comes.

I thank all of you for your efforts and support and hope that more of you will participate in the future.

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## **AFU Observer Health Insurance Survey Results**

### **Summary as of August 1998**—by Mark Coles

Total responses = 22

1-Do you currently have health insurance ?

7 respondents were currently covered by an insurance plan (3 by other employers and 4 buy their own policy)

15 respondents did not have insurance the primary reason being high cost

2- How much are you willing to pay each month for health insurance ?

\$0 = 2 / \$5-\$10 = 2 / \$20-\$40 = 2 / \$50 = 5 / \$60-\$80 = 4 / \$100 = 4 / \$150 = 2

3- What percentage of the cost do you expect the employer to pay ?

100% = 4 / 70%- 90% = 4 / 50% - 60% = 10 / 0% = 1

4- Should there be a minimum of time worked each year to qualify for employer sponsored health insurance ?

NO = 5 / YES = 17

3 months = 5 / 4 months = 3 / 6 months = 6 / 8 months = 1

5- What deductible would be acceptable ?

\$0 = 4 / \$50 = 3 / \$100 = 3 / \$250 = 1 / \$500 = 2 / \$1000 = 4 / \$200 = 1

6- What percentage of co-pay would be acceptable ?

0% = 3 / 10% = 4 / 20% = 3 / 40% = 1 / 50% = 1

7- Sometimes under a group plan it is required that all members of the group participate in the plan. Is this "all or none" concept acceptable to you ?

YES = 10      NO = 11      UNSURE = 1

8- If the "all or none" was the only option available would you prefer to accept the policy or have none at all ?

ACCEPT = 19      NONE = 3

9- Are you covered, or do you have the option of coverage under a spouses' or significant other policy ?

COVERED BY ANOTHERS = 0

10- It is important to you to have the option to cover a spouse and/or children under a policy we might adopt ?

YES = 8      NO = 14

11- Are you interested in disability or life insurance ?

YES = 13      NO = 9

<b>OBSERVER SAFETY &amp; HARASSMENT:</b>
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**STOP OBSERVER HARASSMENT NOW-- UNITED OBSERVERS CAN DO IT!!** by Felix Canez

I was still in my third year of college when I heard the first Observer "Horror story". A schoolmate, shortly after his graduation, was bound to work as an observer on a tuna purse seining boat for the International Tropical Tuna Commission (ITTC). I remember how excited and proud he was. Finally, after all those years of college he was going to work as a true field biologist on the high seas. He was going to be collecting biological data including tissue samples and monitoring the interactions and mortality of the Pacific white-sided dolphin during the yellowfin tuna fishery in the Eastern Pacific Ocean. He was going to be on the ocean, to experience an adventure, and to gather the necessary field expertise to succeed as a biologist. Greater still, he was going to go with his adventurous Biologist spirit and face the real world.

Initially, the trip went smoothly; then, a calamity occurred. The fisherman encircled > 300 dolphins to capture the yellowfin tuna that associate with the dolphins. Maybe because of the wind, the currents or human error, the circle formed by the net (a purse seine) collapsed. The dolphins panicked and many were entangled in the net. More than 200 were killed. Tuna fisherman must practice careful release techniques to reduce dolphin mortality, as their fleet has faced quota reductions and embargoes because of the dolphin mortality issue.

The captain approached the Observer and explained that they had honestly tried to save the dolphins. Therefore, it was not their fault the dolphins died. He asked the Observer to please document only 20 kills. The Observer diplomatically refused and explained that he had a job to do and that he was going to document the actual numbers. For the remaining 2 1/2 months of the trip, the Observer was isolated from the rest of the crew. He was not allowed to eat with the rest of the crew, he was not allowed to watch TV, and no one was speaking to him.

That story may sound less than interesting or exciting to you (besides that, what does tuna fishery observing have to do with observing in Alaska?) But, it is the perfect example of a worse-case-scenario. Imagine being isolated from all social contact, where your only friend is either a book or your own soul? That tuna fishery observer came back and told us, "Don't do it--it is a living hell on the high seas".

Isolation as a form of harassment, while subtle, can have devastating consequences (remember Cabin Fever?). Another former tuna observer told me that he was very close to jumping overboard in order to swim to shore; he did not do it because of the sharks typically present in the tuna fishing grounds. I did not do it during my last cruise because in Alaska the water is too cold.

As funny as it may sound, it is not a laughing matter. It is hard enough to be away from family, friends and things that we love, without having somebody else making it harder--driving us toward our breaking point. Observers should be treated with respect and should not be pushed to the edge.

As I reflect upon the experiences of my last cruise on a freezer longliner, I remember that it crossed my mind to jump so many times. Logic and rational thinking would dictate that it would be foolish to do something like that and I do know that life is precious. I am fine now. But I swear that I was not back then. I want to be honest with you and with myself. Furthermore, I do not want to be afraid to admit that I was losing my mind when I was on board my last vessel.

Harassment started because I did not "give in" to the demands of the crew, they were upset because I did not work in really bad weather (50-60+ knots in freezing temperatures). My station was on the top deck and I was the only one completely exposed to the elements. The crew was working down below and were sheltered. They said that the previous observer worked under similarly adverse conditions. I explained that I am a different individual. According to my best judgment, it was not only dangerous and uncomfortable, but the data quality gathered under those conditions was not going to be the best.

None of my actions were satisfactory to the crew. The deckhands were irritated when I spoke to the captain about their having to release halibut carefully. I was only doing my job. They were very displeased with the amount of time that I spent in bed. I made clear that I was not going to let them dictate to me the amount of time that I was going to sleep. HA! I am the one who wrote that anonymous article about observers sleeping on the boats and the consequences of the lack of rapid eye movement (REM) cycles in the very first issue of the APO Mail Buoy. [1]

Now I do understand why "The determination of the legality of a particular action (Harassment) will be made from the facts on a case-by-case basis". It's just not the same when you look at the actions from a different perspective. What can seem a horrendous situation for someone at sea, may seem normal to anyone else after you tell them. There are many forms and levels of harassment. Sometimes harassment is aimed to influence your data (are the managers of a vessel displeased because your CDQ figures are not the ones that they want them to be?) or it may be just a personality conflict.

Many of us tolerate mild forms of harassment in order to maintain the appearance that everything is all right for several reasons. We do not want the situation to worsen, because we want to maintain a good relationship with our employer (contractor). As noted in the Observer manual, "Observers have to rely on their own resources to ensure that they collect their best possible data under difficult conditions". Coming forward and speaking up is a very difficult step for any observer because we have two not very appealing choices. One is to do nothing and therefore appear tough enough to handle all situations. This, in turn, pleases our contractor because they don't want their business with the vessel threatened. The second is to assert our right as a human being to be treated decently, which may look to some people as though we "could not handle the situation".

During my training course I was told that "harassment is in the mind of the beholder". Every individual is the one that sets the limits of what harassment is. The example that was given to us was the one of an observer that found a rotten fish that his crew placed among his clothes inside a duffel bag. The observer considered that action to be a practical joke and it was the end of the story. However, someone else may have considered it to be harassment.

I have worked as an observer for quite some time now within the NMFS, ADF&G and ODF&W programs. During the majority of my deployments I had very good working relationships with the fishermen. Unfortunately, my last contract was different. Observer harassment needs to be addressed in much more depth. It does not happen to everyone, but it is there in many milder forms. Based on my personal experience and depending on the vessel, there are usually only one or two members of the crew that present a hostile and unfriendly environment to the observer. However, I have seen cases where all the crew is involved. Many of us prefer not to report harassment immediately for many reasons: because we do not want the situation to worsen, because we do not want our

employer (contractor) to think that we can't handle the situation ourselves in a professional manner and we need a reference for another job. But, if you speak up, they will not try it with the next observer.

If you have been harassed by your crew you may understand my opinion. If you have not been harassed, remember that it has happened to your fellow observers. We are a community now! As a community we should support one another. If you have been harassed and did nothing about it remember that you would never want this to happen to a family member. YOU are a family member--for someone YOU are the son, daughter, brother or sister and your family does not want you to suffer when you are at sea. I want to convince you to do the right thing to come forward and fight back.

50 CFR 679.7 says "It shall be unlawful for any person to harass an Observer by conduct that otherwise creates an intimidate, hostile or offensive environment". I can not stress enough that the regulation says "any person" not just the captain. The captain is responsible for the actions of the crew. Some captains hide behind the "I did not know that it was happening". Maybe they did not want to know; it is very convenient for them if they live in ignorance. I have always stood for what I think is right but I have never been very much of a public activist. However, now I am an advocate against observer harassment. I was put through living hell when I was harassed by the crew of the factory longliner.

I want to close with a phrase that doesn't apply to most fishers but just a small select few: *Non illigitimus carborundum* . It seems that it roughly it translates into: Don't let the bastards wear you down-EVER!

I do not mean to be repetitive but for those members of the industry for whom it concerns the most, I want to tell you again that I am NOT going to "just" go quietly away...I just won't!

[1] If you want to receive a copy of the article about sleeping contact APO and it will be e-mailed to you.

*[Article Editor's Note: I would like to offer my sincere gratitude to Felix Canez for coming forth to speak out about observer harassment. I saw Felix after his last trip and he had obviously had a very rough time. Apparently he had requested to be removed from the vessel after the first two weeks! This was not honored by his contractor or by NMFS. Felix spent the next two months in a very uncomfortable situation.*

*Felix may have been assessed as "burnt out", as I have heard from both the contractor and from NMFS staff. However, to take an unpopular stance with the crew in the course of doing one's job often leads to a subtle, yet devastating, form of harassment--isolation. Two months of this would burn anybody out. I believe this takes more gumption than one who decides to just take it. It paves the way for decent treatment of the next observer and for this I would like to thank Felix. (Liz Mitchell)]*

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**To: Mail Buoy Editor**

**From: John Varner**

I have been working for AOI since January of this year. Recently, I was assigned to a vessel which, upon boarding, I determined was unsafe and chose to disembark. The situation, in short, involved a drunk 1<sup>st</sup> mate whose behavior went beyond drunkenness to verbal and physical assault upon an inexperienced crew member and irrational behavior in general. The engineer of the vessel had also been out drinking with the mate but had apparently quit his job and said he was not returning. The 1<sup>st</sup> mate also began directing his verbal assault toward me.

Confronted with a situation where we had no engineer and the remaining 3 man crew (on a dragger) included a drunk, violent mate, a greenhorn with one month sea time, and an older skipper who had absolutely no control over his crew (he was present during the entire incident), I chose to disembark. Upon doing so, I called General Manager of AOI and received immediate and complete support from him. AOI staff's only concern was for my safety as I needed to return to the vessel to gather my data and belongings. I was able to do so without further incident. The next day AOI management followed up with conversations with the vessel's owners resulting in the company's dismissal of the mate upon return from that trip.

I am writing this simply to publicly thank all the staff at AOI for their immediate, unquestioning support during the incident and for their outstanding follow-through afterwards. That follow-through ensured that the next observer assigned to the vessel did not have to deal with a similar situation.

*[Editor's Note to all observers: If you ever feel you're in an unsafe situation or even suspect that you are, please contact, please contact your respective observer program and contractor immediately. It doesn't hurt anyone to ask*

*questions or be over-informed. Many times safety or harassment situations can be remedied by the contractor. Other times it takes intervention by NMFS Enforcement or the Coast Guard. However, if you are silent, the next observer (and crew) could be at risk.*

*AOI notes that although observers who are uncomfortable on a vessel for whatever reason are sometimes reluctant to speak up for fear of making their situations worse, the reality is that speaking up almost always does improve an observer's situation, and this improvement can almost always be secured without any crewmember losing his or her job, and without the observer changing vessels. The situation on John Varner's boat was unusual, and demanded an unusual response. The fishing company involved here also deserves credit for dealing with the situation responsibly.]*

#### **MISC. FISHERIES RELATED ARTICLES:**

##### **Conservation Groups File Suit Against National Marine Fisheries Service [IN E-MAIL VERSION ONLY—From SeaWeb Ocean Update July 1998]**

A coalition of coastal residents, fishermen and environmentalists has filed suit against the federal National Marine Fisheries Service (NMFS) for "failing to prevent overfishing and reduce waste in our nation's fisheries."

The lawsuit challenges regulations published by NMFS to implement conservation provisions added by Congress in October 1996 to the Magnuson-Stevens Fishery Conservation and Management Act (Ocean Update, November 1996, November 1997). Although the federal rules would prohibit overfishing of some fish, the suit claims that, under the agency's interpretation, the law would allow overfishing when more than one kind of fish are managed together in a group.

"NMFS is contorting a new, sustainable fisheries law to allow one fish species to be overfished if it is part of a multi-species fishery," said Peter van Tuyn of Trustees for Alaska, one of the groups signed on to the suit. "In taking this approach, NMFS turns the precautionary management called for by Congress into risk-taking management."

The groups are also targeting what they claim to be a loophole in the NMFS regulations concerning by-catch and discards in commercial fisheries. In several regions of the country, this by-catch can reach huge proportions; in 1995, for example, fisheries by-catch and discards in the North Pacific off Alaska were as large as the total catch of all other major fisheries off the shores of the United States.

According to Dorothy Childers of the Alaska Marine Conservation Council, however, "the rules as written by NMFS...Could block any requirements to minimize by-catch where economic costs to industry are deemed more important than the conservation of the resource."

Contact: Steve Roady [Ocean Law Project, EarthJustice Legal Defense Fund, (202) 667-4500] for more info.

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##### **120 Environmental Groups Call For Ocean Protection [IN E-MAIL VERSION ONLY—From SeaWeb Ocean Update July 1998]**

More than 120 environmental organizations have joined the Washington, D.C.-based Center for Marine Conservation (CMC) in calling for President Clinton to take several actions to protect America's oceans. The move is in response to the release of a CMC document, Agenda for the Oceans, that spells out "the most important actions the U.S. must take to protect its ocean waters and wildlife."

Among the actions the Agenda urges the Clinton Administration to take:

- Strengthen and protect the Clean Water Act to control the major causes of water pollution runoff
- Stop overfishing, reduce bycatch and protect essential fish habitat by fully implementing the 1996 Sustainable Fisheries Act.

- Strengthen and adequately fund laws such as the Endangered Species Act and Marine Mammal Protection Act, which provide protection for Steller sea lions, sea turtles and other marine species.
- Fully fund the National Marine Sanctuary program and designate additional critical areas as "protected."
- Identify and evaluate threats to U.S. coral reefs
- Increase funding for ocean research and management, and launch a national effort to explore, inventory and identify marine wildlife and their habitats.
- Ratify and implement important international agreements such as the Law of the Sea, the UN Convention on Straddling Stocks and Highly Migratory Fish Stocks, and the Inter-American Convention on the Protection and Conservation of Sea Turtles.

Among the groups supporting the CMC document, which was launched at a press conference convened in association with SeaWeb are Greenpeace, the American Oceans Campaign, the Natural Resources Defense Council, the Environmental Defense Fund, and the World Wildlife Fund. Contact: Krishna Roy, Center for Marine Conservation, (202) 479-5609, for more info.

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**FAO Releases Draft Action Plan On Seabirds And Longlines**  
**[IN E-MAIL VERSION ONLY—From SeaWeb Ocean Update July 1998]**

The Food and Agriculture Organization of the United Nations (FAO) has released a draft Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries.

Longlining is a fishing method used worldwide, in small-scale artisanal fisheries as well as modern mechanized operations. It consists of lines of baited hooks which can be set on the seabed (demersal longlining), floated off the bottom at variable depths (semi-pelagic longlining) or suspended from lines floating freely at the surface (pelagic longlining).

Around the world, several longline fisheries are responsible for the incidental deaths of tens of thousands of seabirds every year, which dive on the bait and become ensnared in the hooks. Key longline fisheries in which incidental catches of seabirds are known to occur include: tuna, swordfish and billfish in all oceans; Patagonian toothfish in the Southern Ocean; and halibut, black cod, Pacific cod, Greenland halibut, cod, haddock, tusk and ling in the northern Pacific and Atlantic Oceans. The species of seabirds most frequently taken are albatrosses and petrels in the Southern Ocean; northern fulmars in the North Atlantic; and albatrosses, gulls and fulmars in the North Pacific.

The FAO Plan of Action is a development of the FAO Code of Conduct for Responsible Fisheries, which provides that States should "take appropriate measures to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species ... and negative impact on associated or dependent species, in particular endangered species."

The draft plan calls on states and regional fisheries management bodies to "implement appropriate technical and operational mitigation measures in longline fisheries"; conduct research and development to determine the most effective and appropriate technologies and mitigation measures to reduce seabird bycatch; collect and exchange information to assess the extent of incidental catch of seabirds in each longline fishery; and develop education and outreach programs for fishers, fisheries associations, gear technologists, members of the public and others.

The draft Plan has been officially released to "interested parties for comments" by the FAO. Dr. John Cooper, coordinator of the Birdlife International Seabird Conservation program at the University of Cape Town, has written that "it is extremely important that the Plan of Action gets adopted by the FAO and does not get "watered down" from the current draft in the process."

Contact: John Cooper, University of Capetown, South Africa. Tel: +27 21 650 3426. Fax +27 21 650 3295. E-mail: [jcooper@botzoo.uct.ac.za](mailto:jcooper@botzoo.uct.ac.za)

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**Study Cast Doubt On Effectiveness Of "Acoustic Pingers" In Reducing Porpoise By-Catch**  
**[From SeaWeb Ocean Update July 1998]**



The use of "acoustic pingers" to warn porpoises away from coastal gill nets and thus reduce by-catch in some fisheries may not be as effective as some reports have previously suggested, according to a new paper in the journal Biological Conservation.

The paper particularly examines the results of a 1997 experiment, in which, over a period of two months, 15 commercial sink gill-netters near Jeffreys Bank, New Hampshire, deployed a series of nets, some carrying alarms which emitted acoustic signals within the hearing range of harbor porpoises and harbor seals, and others carrying visually-identical controls (Ocean Update, September 1997). The researchers conducting that study found a dramatic decrease in the number of porpoises caught in nets which carried acoustic alarms.

The authors of the Biological Conservation paper underline the fact that the 1997 study was "exemplary in its design and execution." However, they note that subsequent data has cast some doubt on the experiment's application in the real world. The 1997 paper was based on observations made during 1994; in fall 1995, observers continued to monitor the commercial use of pingers in the same fishery, and counted no porpoise takes during 225 hauls. Pre-pinger take rates suggested that 4-7 porpoises would have been taken had pingers not been used. However, in the spring fishery in the same area, observers saw nine porpoises taken in 88 hauls - "exactly the same average take rate as for the previous five years." Similar results were obtained from a nearby fishery. The authors of the Biological Conservation study suggest a number of variables which might contribute to the effectiveness of pingers. It is possible, for example, that they will lose their effectiveness over time, as porpoises become habituated to the sounds. Another study suggested that the pingers actually drove away the herring on which the porpoises fed, and that they might not work in areas where porpoises do not eat herring. Whereas pingers might, at least initially, work for porpoises, which tend to react negatively to novel stimuli, they may not work with dolphins, which generally respond with curiosity to new stimuli.

In conclusion, the authors suggest that "Managers, scientists and fishers should continue to explore other ways of reducing bycatch, including area closures and alternative fishing methods. Although we are cautiously enthusiastic about their promise, there is currently no justification for adopting pingers as a panacea for the problem of incidental mortality of small cetaceans in gillnets."

Source: Stephen M. Dawson, Andrew Read, and Elisabeth Slooten. 1998. Pingers, porpoises and power: uncertainties with using pingers to reduce bycatch of small cetaceans. Biological Conservation 84: 141-146

Contact: Steve Dawson, Department of Marine Science, University of Otago, PO Box 56, Dunedin, New Zealand

## **JOB OPPORTUNITES**

**Supervisory Fishery Biologist** GS-14, U.S. Geological Survey Biological Resources Division Leetown Science Center. *Duty Location:* Turners Falls, Massachusetts. *Major Duties:* Implements, coordinates, manages and administratively supervises research at the Conte Anadromous Fish Research Lab. Provides scientific leadership and maintains liaison with potential cooperators/clients/collaborators within USGS and other Federal and nonfederal agencies and entities interested in improving passage of migratory fish around man-made structures. Establishes performance standards, reviews progress, establishes priorities and makes assignments for subordinates. Approves budgets, monitors expenditures. Attends appropriate meetings, workshops and conferences as necessary to disseminate research and development results and identify new research and funding opportunities. Applicants should obtain a copy of the USGS Application Guidelines to insure their understanding of the application process and eligibility requirements. These guidelines and USGS vacancy announcements are available in Department of Interior personnel offices, the AVADS BBS (703) 648-6000, ([www.usgs.gov/doi/avads](http://www.usgs.gov/doi/avads)), Earthfax: (703) 648-4888 (selection option 1) and OPM's FJOB. For more information contact: Receptionist, (703) 648-6131, 12201 Sunrise Valley Drive, Mailstop 601, Reston, VA 20192

**RESEARCH COORDINATOR - STREAM ECOSYSTEM RESEARCH** - A research coordinator position is available at the University of Georgia and the Coweeta Hydrologic Laboratory in western North Carolina

beginning January 1, 1999. Field and laboratory responsibilities will include invertebrate and organic matter sampling, maintenance of pump, downloading and analysis of data from Hydrolabs, management and analyses of long-term data, and some microscopy. The successful applicant must be self-motivated and able to work independently. Candidates must be able to spend extended periods of time (up to 3 days and 2 nights/week) at on-site facilities in western North Carolina and travel to the field site on short notice. The applicant should have a M.S. degree in Biology, Ecology, or related field. Previous experience as a project coordinator or in project management is desirable. Additional necessary skills include computer (e.g. spreadsheet, word processing, graphics capabilities) and statistical skills. Submit letter of application, curriculum vitae and names of 3 references to: Amy Rosemond, Institute of Ecology, University of Georgia, Athens, GA 30602, Ph: 706-542-3903, FAX: 706-542-6040, email: [rosemond@sparc.ecology.uga.edu](mailto:rosemond@sparc.ecology.uga.edu)

#### MISC. NOTES & TIDBITS

**NEW MEMBERSHIP:** if you want to become a member of the APO, please write, email or call Kim Dietrich. An annual donation of \$10 is required. Donations are used to publish and distribute the *Mail Buoy* and to pay for costs of testifying at Council meetings out of state. Also, if you are not an observer but would like to receive your own copy of the *Mail Buoy*, there is an annual charge of \$15.

**APO T-SHIRTS** are available. Size options: L or XL. Color option: Black. The price is \$15 (sales tax included).

APO invites you to join our online discussion group. It usually takes 2-4 hours for your message to be posted so don't panic if it doesn't show up immediately. You can link to the site via the APO website or go directly to <http://www.dejanews.com/group/dejanews.members.tech.jp.apo>. The APO website also has a link titled BOOKS. Any books you buy from this site brings revenue to the APO.

#### THINGS TO DO (if you're a Fishhead):

9/12, **Fishermen's Fall Festival** at Fishermen's Terminal. 11am-8pm.

10/15-17, **Pacific Fishery Biologists, 60th Meeting**. Established in 1936 to promote fisheries science through research, cooperation, and the free exchange of ideas. **Registration is due September 25, 1998!** For more info. contact: Tom Payne, Secretary/Treasurer, PO Box 4678, Arcata, CA 95518-4678, [TRPA@northcoast.com](mailto:TRPA@northcoast.com).

11/19-21, **FISH EXPO '98** will be at the WA State Convention & Trade Center. For more info. call 207-842-5508.

Join the **Pacific Marine Conservation Council**. PMCC is a non-profit organization founded in 1997. Guiding principles: \*Working for sustainable fisheries and communities that depend on them; \*To incorporate scientific research and direct experience to better understand and protect the marine ecosystem; \*A healthy and diverse ecosystem has intrinsic value; \*Educating our communities and providing a voice in the management of marine fisheries and habitat; \* Working for policies which will prevent overfishing, reduce bycatch, and protect habitat. For more info. contact PMCC at: PMCC, PO Box 59, Astoria, OR 97103, PH: 503-325-8188, or e-mail: [pmcc@pacifier.com](mailto:pmcc@pacifier.com).

Attend the UW School of Fisheries Quantitative Seminar every Friday, 12:30-1:20pm, Rm. 288, Fisheries Center. Visit <http://weber.u.washington.edu/~calvarez/qua~nti.html> for more information.

Attend UW School of Fisheries Department Seminars (Fish 520) every Thursday, 3:30-4:20pm, Rm. 201, Fisheries Center. Contact School of Fisheries for an itinerary.

The Joint School of Marine Affairs/Industry Seminar Series meets monthly during the school year. Contact SMA for more info.

There are two fisheries related organizations which are always looking for volunteers.

The **Women's Fisheries Network** (WFN) Northwest Chapter sponsors monthly dinner meetings on various fisheries related topics. The next meeting will be on 9/15, 5:30-8:00pm. The NW chapter of WFN General Meeting at Ray's Boathouse (6049 Seaview Ave NW, Seattle). The program title is "Avoiding Seabirds as Bycatch". For more info call WFN at 206-789-1987. Non-members are welcome. Attendance is not limited to women. Meetings are usually the 3rd Tues. of each month. Contact the WFN office @ 789-1987 for more information regarding future program topics.

The **Youth Maritime Training Association** (YMTA) is a non-profit organization dedicated to serving the youth of WA state. They seek to open new pathways to maritime employment and build awareness of the maritime industry's contribution to Pacific Northwest communities. They're currently looking for guest speakers in the maritime industry (this includes biologists!). For more information, contact Norm Manly @ 206-281-3821.

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### **IMPORTANT PHONE NUMBERS/email**

Kim Dietrich 206-547-4228/[kdiet@aa.net](mailto:kdiet@aa.net)  
Erika Acuna

Mark Coles, AFU 206-441-3425

NMFS staff (email format *first.last@noaa.gov*):

Bill Karp 206-526-4194  
Shannon Fitzgerald 206-526-4553  
Martin Loefflad 206-526-4194

OTC 907-257-2770  
NPFMC (Council) 907-271-2809

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### **NMFS BRIEFING/TRAINING SCHEDULE**

(subject to change)

<i>Date</i>	<i>Type</i>	<i>Location</i>	<i>Date</i>	<i>Type</i>	<i>Location</i>
9/14-25	ADF&G Crab Training,	Anchorage	11/10	4-day	Anchorage
			11/16	1-day	Seattle
10/10	1-day	Anchorage	11/11	3-week	Anchorage
10/6	4-day	Anchorage & Seattle			
10/13	1-day	Anchorage	12/1	1-day	Anchorage
10/19	5-day	Anchorage (MS-CDQ)	12/8	4-day	Anchorage
10/19	1-day	Seattle	12/14	5-day	Anchorage (MS-CDQ)
10/27	1-day	Anchorage	12/15	4-day	Seattle
			12/21	4-day	Anchorage
11/3	1-day	Anchorage	12/28	3-week	Anchorage
11/10	1-day	Anchorage	12/28	3-week	Seattle

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### **MEETINGS & OPENINGS**

Sept.1 Pollock 'B' season opens; Aleutian Is. Brown King crab opens

- Sept 15 P.cod reopens in the Bering Sea. St. Matthew/Priblof Is. King crab opens; Hair Crab opens 10 days after closure of St. Matts/Priblof King crabs.
- Sept. 23-24 Observer Advisory Committee meeting, Seattle, Observer Training Room, Bldg. 4. Starts @ 8:30 am. Contact Chris Oliver at the Council for more info re: agenda.
- Oct 5 North Pacific Council meeting in Seattle. Call the Council for location.

**Cool Websites:**

<http://www.york.biosis.org/zrdocs/zoolinfo/zoolinfo.htm>

<http://home.istar.ca/~gadus/sci.html>

[www.psmfc.org](http://www.psmfc.org)

[www.fakr.noaa.gov](http://www.fakr.noaa.gov)

**INTERESTED IN WRITING/PUBLISHING THE MAIL BUOY IN December?** Volunteers needed--talk to Kim. We're still looking for extra help with some insurance research and grant writing.

The APO continues to be interested in your ideas - if you have an idea for an article or story, would like to respond to a previous article, or think the APO has overlooked some issues, drop us a letter or call any time. Contributions from all sectors are welcome. Thanks to Nicole Caputo, Liz Mitchell, Raymond Moore, Mark Coles, Erika Acuna, Carin Chase, Shannon Fitzgerald, Dave Edick, Tood Loomis and Sally Bibb for your prompt answers to questions and/or your editing contribution. Thanks again for all of you who contributed to this issue. Your efforts are greatly appreciated. (KD)