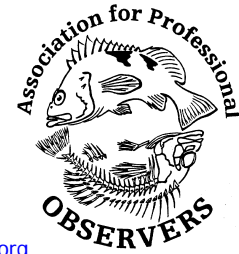




The Mail Buoy



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NEW FORUMS ON OBSERVERNET

Dave Wagenheim; Observer/ObserverNet Manager/APO Board; North Pacific.

The ObserverNet (www.observernet.org) staff has been working hard to accommodate the ever-evolving observer community needs and desires, and we have recently made some changes and additions to our public observer discussion forums

Observer Working Group forums have been created to facilitate discussions on a variety of topics relating to fisheries management. The idea for these focused discussion groups was brought up during the 4th International Fisheries Observer Conference (IFOC) held in Sydney, Australia, November 2004.

The working group topics (listed under the 'Fisheries Management and Observer Related Discussions' forum on ObserverNet) are meant to represent some of the most important subjects that were discussed in Australia and at previous conferences. These working groups will allow those who wish to be involved in fisheries management to continue to exchange ideas and to build upon some of the topics presented in the past, to be presented in further detail at the forthcoming IFOC in Victoria, British Columbia, May 2007 (www.fisheriesobserverconference.com). These focused working groups are excellent places to start for observers thinking about presenting on a panel, designing a poster, or just attending the next Observer Conference.

We have also created an 'APO News' sub-forum that can be found in the same forum, 'Fisheries Management and Observer Related Discussions.' Here, APO staff will periodically post any immediate Fisheries Management News that may be too important to wait for the quarterly Mail Buoy publication.

If you have suggestions for other important topics not currently listed or have any comments regarding how these forums are organized, please let ObserverNet staff know immediately. Our moderators will continue to organize and manage the forums as needed, always facilitating great communication among the fisheries management and observer communities in order to keep up with changing needs. Please, contact me with any questions or comments regarding ObserverNet forums: dave.wagenheim@observernet.org

***** Dave Wagenheim and Kim Deitrich have also worked very hard over the holidays to bring the APO website up to date again... check it out: (www.apo-observers.org)**

“EDUCATIONAL OBSERVERS” FOR BRAZILIAN LONGLINERS

*Sara Monteiro¹; T. Neves² and A. Luis;³ Universidade de Aveiro, Portugal; Projeto Albatroz, Brasil
(Summarized by Keith Davis)*

Brazil has a vast and very rich fishing area in the South, under the influence of the Subtropical Convergence Zone. This zone is also one of the most important feeding areas for seabirds of the Southern Oceans, mainly albatrosses and petrels¹. According to Ryan (1998)², this same area is also where the greatest number of worldwide interactions between seabirds and longliners occur. High mortality rates are observed and several of the species are considered “threatened” by BirdLife International³.

The University of Aveiro, Portugal cooperated with Projeto Albatroz, a Brazilian NGO (Non Governmental Organization) in 2005, to begin a study into probable solutions to solve this problem. Basically, we believe seabird mortality rates can be greatly reduced by applying environmental education methods, specifically directed towards fishermen. The aim of our study was to characterize several aspects of two Brazilian longline-fishing crew’s, propose new methods of divulgation and education of all Brazilian longline fishermen towards their working environment, and to propose the implementation of “Educational Observers” aboard these vessels. Another goal was to begin a database on fishermen collaborating with Projeto Albatroz so that better planned activities can be made in the future.

For our study, we made our deployments aboard two separate cooperating Brazilian longline fishing vessels between May and August 2005, departing port in Santos, São Paulo, Brazil. In the studied geographical area, fishing activities targeted swordfish (*Xiphias gladius*), tuna (*Thunnus* sp.), and several shark species (mainly captured *Isurus oxyrinchus*, *Prionace glauca* and *Sphyrna* sp.)- both fishing trips lasting twenty three days. According to the amount of data collected and the length of the study, we followed an exploratory research method, based on empirical processes, utilizing non probabilistic sampling- “convenience sampling (Gomes 1992)⁴”.

¹ Neves, T., Olmos, F., Peppes, 2004. Plano de Ação Nacional para a Conservação de Albatrozes e Petréis. Instituto Florestal, SMA-SP, Instituto Albatroz e BirdLife International-Programa do Brasil. São Paulo, Brasil. 97pp.

² Ryan, P.G., 1998. The Taxonomic and Conservation Status of the Spectacled Petrel *Procellaria conspicillata*. Bird Conservation International. 8:223-235.

³ Birdlife International, 2000. (<http://www.redlist.org/>), consulted on the 26th of July 2004.

⁴ Gomes, M.H.O.F, 1992. Amostragem não Probabilística e Aleatória Simples Com Probabilidades Iguais. Instituto Nacional de Estatística. Lisboa. 65pp.

The Basis of our study began with a general query regarding personal information of every fisherman, and several informal educational conversations held with crew on various subjects, focusing on albatross conservation and on correct waste disposal for fishing vessels and their impact on marine wildlife. Additionally, fishermen were asked for their opinion on Projeto Albatroz and on earlier activities promoted by this NGO. Most of the crew members were acquainted with the project through: informal conversations had on the pier with Biol. Oc. Tatiana Neves (founder of the project), through the presence of past onboard observers, and by visiting Projeto Albatroz headquarters. When asked their opinion on the advantages of having an observer onboard many answered that the observer taught them a lot on new issues, mainly on environmental subjects (61,9%). Another frequent answer was that there was no direct advantage for them, for the observer was there to do his job (14,29%). Other answers were that: observers usually help with daily tasks, a new face onboard is always good, observers help to reduce incidental capture, and one fisherman answered that sometimes it was a disadvantage to have an onboard observer. New activities to be made by Projeto Albatroz were suggested to crewmembers. We believe that implementation of laws is not enough- that this group of professionals needs first to understand the reason why a law has been implemented so that they may respect the law. We also consider environmental education to be a necessary tool to accomplish many of Projeto Albatroz's goals. Both studied crews showed desire to collaborate with our projects.

Well aware of the alternative schedule of many fishermen (i.e. 21 days at sea and 4 days ashore), there is a growing need to find a way of having a more permanent interaction with crewmembers. The implementation of the “**Educational Observer**” (a new concept of a fisheries observer) was suggested. This Educational Observer would be prepared to teach, give and receive information next to the fishermen, in environmental education, on species conservation and habitats among others. The observer could also work as a teacher onboard since most of the selected observers have a degree in Marine Biology or other related degree. Although our study showed a low level of scholarly education among the crewmembers, they often expressed to us an eager will to improve this level if given the opportunity to do so.

Projeto Albatroz headquarters is located near the fishing docks in Santos, Brazil, where most of the vessels unload and sell their captures, therefore being easily visited by fishermen. We can be used as an intermediary between the fishermen and the Ministry of Culture and Education, releasing the fishermen from bureaucratic work that many times steals the stimulus to start the educational process. The project divulgation in fishing communities is very important and should be planned according to the targeted public. It is also imperative to include fishermen's families in some of the activities, for it is known that children represent future hope, and the probability of a fishermen's son becoming himself a fisherman is very high. The continuity of this study for the rest of the collaborating vessels is very important in order to implement an updated database that will allow better planning of all activities according to the needs of every fishermen, according to their working environment and wills.

**** This article was comprised from excerpts of the Master's Thesis: "Sensibilization directed to fishermen to the reduction of incidental seabird capture in longline fisheries in Brazil;" sent to us from Sara Monteiro, an observer in Brazil. For additional Literature cited, acknowledgements, and references or for a copy of the original document please contact APO staff.*

NEW SOUTH WALES (AUSTRALIA) OCEAN HAUL OBSERVER PROGRAM

Bob Trumble; Vice President; MRAG Americas, Inc.

The New South Wales (NSW) Ocean Hauling (beach seine) Fishery Management Strategy (www.deh.gov.au/coasts/fisheries/nsw/haul/) provides for the establishment of observer-based studies to assess bycatch and interactions with different habitat types and threatened/protected species. The management strategy was developed in part from court-ordered requirements to determine biological and environmental impacts of the fishery. In March 2005, NSW Department of Primary Ind. (DPI) contracted MRAG Americas, Inc. (www.mragamericas.com) to conduct an observer program for the ocean haul (OH) fishery. Fishing was believed to be highly targeted and landings of non-target species were thought to be small relative to other fisheries. In addition, species targeted by OH fishers tend to occur as schools of mature fish, and catches of immature/undersized fish was expected to be minimal. Most of the evidence for the above information was anecdotal, however, and the assumptions needed to be tested by a scientific observer-based study.

MRAG organized the project in March 2005: recruiting and hiring observers, organizing sampling equipment, obtaining permits required, obtaining vehicles, and conducting training. Training occurred at the end of March in line with the start of observer deployment in the first week of April. MRAG contracted with an experienced trainer, Mr. Greg Morgan of the Observer Training Center in Anchorage, to conduct observer training in advance of observer deployment.

In addition to a full sampling kit specified by DPI, MRAG provided each observer with a 4-wheel drive vehicle equipped for beach driving, vehicle recovery gear, a laptop computer for email communication and transmitting data, comprehensive first aid kit, and an electronic scale for weighing fish. MRAG also provided each observer with an identification card for the OH observer program and a polo shirt and baseball cap with the MRAG Americas logo and "Ocean Haul Observer Program" to further assist with identification of our team.

The target species reside in estuaries during the summer, move out to the ocean when fall brings low pressure systems, and then migrate north along the beaches during the lows to spawning locations. Fishers spot moving schools, often from bluffs along a beach, and set a beach seine on the school. MRAG designed a sampling plan to randomly distribute a fixed number of samples, for each of three target species, proportionally to fishing effort over time in three regions that spanned the 1700 km NSW coastline. The sampling strategy called for one observer in March, three observers in April and May, two observers in June, and one observer the remainder of the season.

The late contract from DPI set our sampling back a month, which we figured to make up with some extra effort in April and May. However, the fish had other ideas. Many fish moved in March during a low pressure system before our sampling program got under way. Fine summer weather extended through April and early May, causing fish to remain in the estuaries. Fishers predicted a poor fishing season, and many left the fishery. MRAG conferred with the chief scientist at DPI, and together determined that a randomized sampling approach would not work. It was decided that observers needed to sample opportunistically when they could find active fishers. A major low in May caused many more fish to migrate while weather was too rough for fishing. The combination of fine weather alternating with major lows through July, very little fishing activity, and the lowest level of catch in decades led MRAG and DPI to terminate the program at the end of July, rather than continuing as scheduled through August. Because of low fishing activity, MRAG maintained all three observers through July to increase the likelihood of finding and sampling any active fishers. In spite of increased sampling effort, the OH Observer Program did not obtain the required number of observer days for most species-area strata. MRAG's observer staff in NSW maintained regular communication with the Ocean Haul fishery managers to keep them apprised of problems with the program and MRAG's response to them.

While we cannot determine if the lower than scheduled sampling was representative of the fishery, observer data analyzed by MRAG showed several key points. In general, the OH fishers can identify the species in a school, and the fishery is characterised by predominant catches of the target species with low bycatch and discards. In several cases, fishers made sets on mixed species schools and we assigned the target as the predominant species in the catch. As a result, the bycatch to target ratio was high for areas where these sets occurred. Observers reported that fishers retained most individuals caught, unless they could be released alive, as fishers did not want to leave dead fish to litter the beach. We cannot determine how much of the retained non-target catch was discarded on land or sold. Observers did not report any interactions with marine mammals, sea turtles, or seabirds during the fishery. The fishery uniformly occurred on sand substrate. The limited number of observations did not demonstrate any adverse environmental effects.

Several Australian states anticipate starting or expanding observer programs, in response to or anticipation of similar court orders as for the OH fishery. After completion of the OH observer program, Queensland DPI and the Australia Fishery Management Authority contacted MRAG about observer activities. We anticipate that observer-provider opportunities in Australia will develop over the next several months to several years.

MRAG will actively seek to win them as they become available. Some observer provider opportunities require non-Australian citizenship, and others allow non-Australians who can obtain work permits. MRAG would consider hiring current US observers for future Australian opportunities as appropriate, although logistics would tend to favor applicants currently in Australia. Certified observers interested in Australian opportunities may contact Bryan Belay, Observer Operations and Recruitment Manager, bryan.belay@mragamericas.com.

NATIONAL NEWS:

NATIONAL OBSERVER PROGRAM UPDATE

Teresa Turk; National Observer Program/Previous Observer; Silver Springs, MD

CCAMLR/Antarctic Observer Program

The NOP assisted with drafting new observer regulations for CCALMR (www.ccamlr.org) and the Southern Ocean. The proposed regulations incorporate procedures that are standard in most US observer programs, include the following:

- Prohibiting a vessel from employing an observer directly thus requiring the observer be hired through an existing contractor
- Prohibiting harassment/coercion/bribery/intimidation of the observer.
- Vessel must pass the observer safety checklist before the observer can deploy. (It was cost prohibitive to require the safety decal as a standard for observer deployment)
- Vessel must allow observer free and unobstructed access to wheelhouse & all areas of the vessel.
- Vessel must provide an observer sampling station, notify the observer 15 mins. prior to a catch coming on board, and provide safe transfer at sea.
- Observer eligibility requirements and standards of conduct

Department of Labor Issues:

The NOAA Fisheries Service policy (NMFS Policy Directive 30-126, Classification of Fisheries Observers Under the Fair Labor Standards Act) has been approved and will become effective on January 27, 2006. The policy states that Federal employees, federally contracted observers and observers hired under third-party contracts that use federal funds for wages or compensation shall be classified consistent with the requirements of FLSA. The current evaluation of the regional observer programs indicates that observers are not exempt under FLSA and are currently classified as technicians. The full text of the policy can be viewed at www.nmfs.noaa.gov/directives/.

International Fishing Industry Safety and Health Conference (IFISH 3):

Dennis Hansford participated in the 3rd International Fishing Industry Safety and Health Conference (IFISH 3- www.ifish3.org), February 1- 4, 2006, and presented information on safety regulations and safety training standards for marine fisheries observers. The conference focused on the latest developments in small-scale and commercial fishing safety and injury prevention. Dennis will share the information obtained from this workshop with the National Observer Program Advisory Team (NOPAT).

Fisheries Observer Compensation Act (FOCA)

Current Status:

On December 8, 2005, Dr. William Hogarth approved the draft Fisheries Observer Compensation Act (FOCA) legislation for the NOAA Fisheries Service. FOCA is now being reviewed by NOAA for approval and will then require reviews by the Office of Legislative Affairs, Office of Management and Budget, all other Federal agencies, and the Department of Commerce.

FOCA History and Issues Review:

The three most fundamental insurance problems observer programs face are how to provide adequate workers compensation coverage to observers in the event that they are injured or killed on the job; redundant or unnecessary coverage for contracted observers; and vessel owners' liability in the event an observer is injured or killed while deployed on their vessel. Currently, there are no minimum legal requirements for the type of insurance that must be provided, other than general guidance provided in the Federal Acquisition Regulations (FAR). To address these problems, NOAA Fisheries held a workshop on Fisheries Observer Insurance, Liability and Labor in June 2001.

After internal discussions, NOAA Fisheries used the information collected during this workshop to develop a more consistent and efficient approach to ensuring that all parties are adequately covered in the event of an injury or death by developing draft legislative language for a Marine Fisheries Observer Compensation Act (FOCA). The draft legislative language included the following provisions:

- FOCA extends Longshore and Harbor Workers Compensation Act to observers.
- Ensure guaranteed comprehensive insurance coverage to all non-Federal marine fisheries observers and minimize the need for duplicative and expensive coverage by observer service providers.
- FOCA will apply wherever marine fisheries observers' duties are conducted (e.g. on board a vessel, on an offshore platform, at a processing plant, in transit, or at a debriefing on land). A cap on exposure and expenditures for such compensation.
- FOCA will include overtime pay in the basis for compensation, and will provide prompt compensation of living and medical expenses.
- FOCA will preclude Jones Act claims by observers and prohibits negligence claims against the vessel, except in the case of willful negligence on the part of the vessel owner, crew or captain.

The current insurance system is extremely expensive due to the need to provide duplicative insurance coverage. The duplicative insurance coverage may still fail to provide timely and fair compensation to an injured observer. Observers may be forced to file suit under the Jones Act or in admiralty against their employer, the vessel they were injured on, or both to get compensation for an injury. The possibility of lawsuits against the vessel has the effect of making fishing vessel owners and operators reluctant to take marine fisheries observers on board. FOCA addresses all of these issues while ensuring that an observer is compensated in a fair and timely manner in the event of injury or death.

APO BEGINS TO QUANTIFY CONFLICTS OF INTEREST AMONG US OBSERVER PROGRAMS

APO Staff

The APO is initiating an independent system for observers to report conflicts of interest instances between: the vessel and contractor, vessel and NMFS, observers and vessels, observer and contractors, and any other potential conflicting accounts. Because observers are not currently protected from retaliation for “whistleblowing” (speaking up) in the course of their duties, this system will remain anonymous (we will not reveal sources unless specifically granted permission by the individual observer). Although we may record specifics, we will be careful not to reveal specifics (individual names, contractor names, vessels or fishing company names). We primarily wish to quantify (in a database) occurrences, vessel types, monitoring project types, and general descriptions of situations for the purpose of reporting this information to the National Marine Fisheries Service (NMFS), regional councils, and other fisheries management advisory groups. As a result, we hope this will spring discussions working towards developing protocols to ensure the independence of observers and the integrity of observer programs.

To ensure anonymity, we will provide an opportunity for the reporting individual to review their case before we report on it or dispense it in any way shape or form. We will discuss with the individual ways of ensuring that the information is not traceable to them. This is, of course, unless the individual wishes to come forward publicly. We are interested in reaching out to observers working in any and all U.S. monitoring programs--fisheries, sea turtles, seabirds, marine mammals, dredge, oil platform, or any other monitoring program where marine habitat and/or wildlife are impacted by resource extraction. We aim to track conflicts by region.

Examples of some common Conflicts of Interest among observer programs:

- An observer is refused subsequent employment or “black-listed” from certain vessels after reporting a violation while monitoring a vessel or because they refused to board a vessel due to safety concerns.

- A vessel refuses to take a female observer and the observer provider repeatedly places only male observers on that particular vessel.
- An observer is removed from his/her vessel because the captain placed pressure on the contractor to get another “type” of observer.
- An observer provider allows a vessel to negotiate with another vessel for acquiring a desired observer, with minimal to no expressed concern for the observer’s welfare.

As fisheries become increasingly privatized (requiring direct accounting from observer data of bycatch and quotas) observers may experience increased pressures from vessel personnel. Though there are laws protecting observers from harassment and interference, vessel owners have been reported refusing observers based on gender, previous violation reporting, and for the observer being “too zealous”. And, if vessels have a business relationship with the observer provider (e.g. in the North Pacific Groundfish Observer Program), NMFS can have very little control over these biases.

As resources become increasingly depleted and human environmental impacts increase (due to fishing, dredging, oil exploration or platform destruction), there is likely to be more influence in how the nation’s observer programs are run through pressures from Congress, litigation-based decisions, and corporate interests. Unfortunately, mitigation-based monitoring results in increased pressure on observers to produce the observations favorable of the project in question.

Liz Mitchell has volunteered to create and maintain the APO’s Conflict of Interest database. If you have a question of whether or not an instance is a conflict, please contact us with any questions. And also feel free to report all conflicts, whether minor or significant. You can report incidents in the following way:

1. E-mail us: <apo_obs@hotmail.com>
2. Send us a letter: Liz Mitchell—APO , P.O. Box 933, Eugene, Oregon 97440
3. Phone us: (541) 344-5503 (If nobody is around at this number, you can always leave a message with as much detail as comfortably possible.)

****** As an alternative to direct reporting, one can also voice their concerns through participation in the Conflict of Interest Working Group forum on the ObserverNet.org website.***

REGIONAL UPDATES:

***** Observers, please submit descriptions/observer stories from any observer program that you believe to be under-represented or not represented at all.**

The Pacific Islands (USA):

“FIRED UP” OBSERVER SAFETY TRAINING IN HAWAII

***Joe Arceneaux; Training Coordinator; NMFS Pacific Islands Regional Office
(Summarized by Keith Davis)***

Marine Safety Instruction:

All of the Pacific Islands Regional Office (PIRO- <http://swr.nmfs.noaa.gov/pir/>) Observer Program observer trainers and debriefers are trained Marine Safety Instructors with Alaska Marine Safety Educational Association (AMSEA- www.amsea.org). We tend to piece up the marine safety training throughout the entire three-week observer training, and to coordinate the lectures with the practical exercises closely following. Many of Observer Program staff participate in these trainings, where each staff member is given a chunk of marine safety instruction to cover. In addition, our program is happy to offer our observers several practical exercises to help better prepare them.

Hands-On Fire Safety and Pyrotechnics Training:

Starting in 2005, the Pacific Island Regional Office (PIRO) Observer Program were able to make use of the Seafarers International Union (SIU) training facility at Barber's Point, Hawaii. The SIU Training Center has several large classrooms for lectures & a fully equipped shed of fire protective gear, and the lectures & fire drills are run by maritime industry certified instructors. The observer training class spends a very full day practicing and learning at these facilities.

There are several life size mock-up fire situations to train basic to advanced marine fire fighting. The observers practice putting out an energized machine fire, which includes fire classes; C & B, and then B & A. Then, they practice putting out a galley fire on the oven-range top trainer. We also have each trainee light a hand flare, and we demonstrate smoke flares by popping several canisters. Then, there is a *zero visibility maze* we incorporate into the day's exercises, where observers must navigate through it as if they were enveloped in smoke. Next, the class attends a lecture on flooding & damage control, and then we head outside to practice plugging leaks in the damage control trainer. Different shaped holes, different plugs and varying water pressure are all utilized. It's a fun drill, and the class groups compete to plug all the holes the fastest. Finally, it's into the pool for the immersion suit & liferaft training.

Wilderness First Aide training:

Additionally, the PIRO Observer Programs have contracted the Wilderness Medical Institute of the National Outdoor Leadership Schools (NOLS/WMI- www.nols.edu/wmi/) to provide observer trainees with remote area first-aid training. This training is top notch and has been well received by most of the trainees who have taken the course. The course is 2 ½ days long and covers a wide variety of subjects, like: assessing the victim, bandaging wounds, applying splints, cleaning wounds, removing fish hooks, identifying hazards to the victim & caregiver, and treating for shock. The course has attracted much interest, and we've opened the doors to the course to other NOAA Fisheries personnel from the Pacific Islands Region.

We hope to be able to continue to provide this high quality training to our observers as several other organizations and agencies such as the US Forestry Service, US Fish & Wildlife Service, and FBI also all utilize the high quality training offered by NOLS/WMI for their personnel in the field. We have found it to be very helpful for successfully preparing our trained observers for work in the field.

Observer Issued Safety Gear:

The NMFS PIRO Observer Programs issues each observer a **satellite phone and a Personal Locator Beacon (PLB)**. The satellite phones are back-up for observers to report health & safety problems, but are also used to report information regarding protected species catches and for asking staff important questions pertaining to their jobs. The PLB are small wearable EPIRBs that can be kept with the observer at all times.

Currently, the primary mode of communication between the observers and the program office is still the Single Side-Band (SSB) radio. However, there are times when radio communications aren't working properly. In case of an emergency, the satellite phones allow a more reliable link between the observer & vessel, and personnel on shore. The PLB's were purchased to offer additional signaling capability to our observers, in case their main 406 EPIRB (which they also carry with them) was lost or malfunctioned.

The North Pacific (USA):

NMFS SUPPORTS THE “DO NOTHING” ALTERNATIVE

Liz Mitchell; Observer/APO Board; North pacific, USA

On January 22, 2006, the National Marine Fisheries Service (NMFS) sent a letter to the North Pacific Fisheries Management Council (NPFMC- www.fakr.noaa.gov/npfmc) recommending that they adopt “Alternative 2 – Rollover Alternative” of the

Environmental Assessment (EA)⁵. In doing so, NMFS is ignoring their own recommendations for the past 15 years and those of externally conducted reviews of the program's effectiveness^{6, 7}. The deadline for restructuring is in December 2007, after which NMFS has to either restructure the program to address these problems or permanently rollover the current "pay as you go" system for observer procurement. At issue is the reversal in the direction that NMFS wanted the NPGOP to take since the program's inception. This decision ends a 15-year process by the Observer Advisory Committee (OAC) involving cooperative efforts from NMFS observer program staff, Council staff, APO representatives, Industry personnel, observer unions, and observer providers. The OAC has been discussing ways to change the current structure of the NPGOP so that NMFS has more control over where and when observers monitor Alaska's groundfish fisheries.

In 2003, the Council, through the OAC, produced an official statement summarizing the NPGOP's main problems. They include:

1. Coverage levels are based on arbitrary length divisions.
2. These coverage levels can't respond to current and future management needs
3. NMFS can't control when and where observers are placed throughout the fleet and the resulting biases could jeopardize the statistical reliability of the data.
4. Small boats (60-125 feet, 30% coverage) face a disproportionately high cost for observers relative to their gross earnings.
5. Observer availability and coverage compliance problems

They said: "The current funding mechanism and program structure do not provide the flexibility to solve many of these problems, nor do they allow the program to effectively respond to evolving and dynamic fisheries management objectives."

What isn't mentioned in the Council's problem statement but repeatedly stated by NMFS in various bulletins is the potential for bias in observer placement when vessel owners have business relationships with observer providers. This bias would be resolved under a direct contractual relationship between NMFS and observer providers—boats would pay NMFS, and observer providers would be under direct control of NMFS.

Under the current structure, observer providers compete for business from industry clients and this has "led to the problem of vessel captains refusing to board certain observers and choosing when to fulfill coverage requirements". To resolve these issues, both reviews recommended a direct contractual relationship between NMFS and observer providers. Over 92% of the Groundfish fleets (58% of the Groundfish catch – not including discarded

⁵ Letter to North Pacific Fishery Management Council Chair, Ms. Stephanie Madsen, from Robert Mecum, Acting Administrator, Alaska Region of NMFS, dated 22 January 2006

⁶ MRAG Americas. 2000. Independent Review of the North Pacific Groundfish Observer Program. Prepared for NMFS, Alaska Fisheries Science Center, Seattle, Washington, May 2000.

⁷ U.S. Dept. of Commerce, Office of Inspector General. 2004. NMFS Observer Programs Should Improve Data Quality, Performance Monitoring and Outreach Efforts. Final Audit Report No. IPE-15721/March 2004.

bycatch) are completely unmonitored⁸, leaving gaps in critically needed data. Under the current structure, NMFS has no control over any of these problems. Although the EA specifically states that Alternative 2 will not address the issues mentioned in the problem statement, this latest letter reverses 15 years of NMFS' own scientific recommendations by urging that the Council adopt Alternative 2.

The real issue at stake is that the large boat fleet and processors fear they will have to pay more for observers under the direct contract relationship between NMFS and observer providers. Among the fee structures proposed includes the requirement of vessels to pay observer fees in relation to what they catch. In addition, they fear observer costs will rise even more, now that NMFS has confirmed that observers are **“Biological Technicians”** (vs. “Professionals”)⁹. Under a direct contract system, Biological Technicians are eligible for overtime pay. However, Dr. William Hogarth, Assistant Administrator for Fisheries at NMFS, reminds us that most observers in the NPGOP are under a collective bargaining unit and, as such, there is no guarantee that (under the current system) observers won't ask for more than what we're currently getting. On the other hand (under a direct NMFS/observer provider contract) overtime requirements are not required by observers under a collective bargaining unit.

Through the OAC, restructuring efforts have been thwarted by Industry representatives from the 100-200% coverage vessels and processing plants at every turn for the last 15 years because they stand to lose on restructuring efforts. And, Industry has now been successful at convincing NMFS to give up on restructuring altogether. While the OAC mentioned in their 2006 report¹⁰ that the intent of recommending Alternative 2 was not to abandon restructuring altogether, under Alternative 2, they would no longer have a deadline. **After 15 years of operating with a deadline with no result, what makes us think that restructuring will ever occur while operating without a deadline!?!?**

Maybe we need to step back and question the Council process all together: The predominant voting members on the NPFMC are fishing industry representatives and have a direct financial interest in the fisheries management decisions made by NMFS. Why is the agency that is responsible for sustaining marine living resources and holds ultimate authority over all fisheries management decisions (NMFS) asking the council to make a decision about an unbiased monitoring program for their members' commercial operations??? In general, regulatory agencies' authority is undermined by Congressional decisions to favor commercial interests. And, the Dept. of Commerce/NOAA/NMFS has too often had to struggle with the conflicting missions of promoting commercial interests while properly protecting the natural resources it manages.

⁸ Preliminary Draft of the Environmental Assessment/Regulatory Impact Review Initial Regulatory Flexibility Analysis for Proposed **Amendment 86** to the Fishery Management Plan for Groundfish of the Bering Sea/Aleutian Islands Management Area and **Amendment 76** to the Fishery Management Plan for Groundfish of the Gulf of Alaska to Establish a New Program for Observer Procurement and Deployment in the North Pacific Groundfish Observer Program, January 2005.

⁹ Letter to Mr. Arni Thomson, Alaska Crab Coalition, Seattle, Washington, from William Hogarth, NMFS, Assistant Administrator for Fisheries, November 29 2005.

¹⁰ Draft Observer Advisory Committee Report, January 30-31, 2006. Alaska Fisheries Science Center, Seattle Washington.

This latest decision by NMFS is another flagrant example of how business interests are valued over science and, essentially, NMFS' own recommendations. Additionally, under the current US administration, many atrocious decisions have been boldly announced in direct contradiction to federal agencies' own science, and many federally employed scientists are feeling the pressure of having their science ignored or altered. For instance, last summer, the Union for Concerned Scientists (UCS) and the Public Employees for Environmental Responsibility (PEER) conducted a survey of 464 NOAA fisheries scientists in regional offices¹¹. Of the 124 respondents, a significant percentage reported upper level managers altering scientific reports and determinations, inappropriate influence from Congress, and reversals of NMFS scientific conclusions by commercial interests, through political intervention.

In response to the PEER/OCS NOAA Employee Survey, Dr. Hogarth, sent an e-mail to all NOAA employees, encouraging everyone to talk to their supervisors if they feel "decisions are being made that are not based on review of the data and overall goals and objectives of the agency."¹² But what can observers do when we're not employed directly by NMFS but provide a significant portion of the data needed for NMFS scientists to sustainably manage marine ecosystems?? We really don't have a supervisor who isn't influenced by big industry. In a sense, we can, and must, consider Dr. William Hogarth to be our supervisor because we collect data for him to make responsible decisions "based on the best scientific information available [that] must meet our Congressional mandates to rebuild and sustainably manage our living marine resources..." After 15 years of managing one of the most productive ecosystems in the world using a flawed observer program, we have the opportunity of improving the effectiveness of the NPGOP's applied science.

NMFS and the NPFMC have been dancing around this issue for long enough and they have had plenty of time to arrive at a cost analysis of a direct contract system. The Department of Labor hasn't yet clearly defined wages for the Biological "Observer" Technician but that is no excuse to sit on our hands- we still have until December 2007, right? **Well, at February's council meeting, they chose Alternative 2 as the "preliminary preferred alternative."** This shows me that the NP Fisheries Management team is more concerned with **protecting** the commercial interests of powerful fishing industry representatives than **protecting** healthy fish populations, marine ecosystems, and the small fishing communities that depend upon them. The current program structure does not meet the needs of the NPGOP or NMFS' overall objectives. The Council takes final action at their June 2006 meeting. We must urge Dr. Hogarth to not support Alternative 2, while aggressively pursuing a direct contract system between NMFS and observer providers.

¹¹ Public Employees for Environmental Responsibility. 2005. Political appointees pollute waters at ocean agency—survey shows special interest influence and altered scientific findings. Website address: <http://www.peer.org/news/print_detail.>

¹² Hogarth, Bill. 2005. Science in NOAA Fisheries, E-mail sent to all NOAA employees 07 July 2005.

OBSERVERS ENCOURAGED TO ATTEND COUNCIL MEETINGS

Paul Wilkins; Observer; North pacific, USA

In December 2005, while taking a break from the field in Anchorage, I found out the North Pacific Fishery Management Council (www.fakr.noaa.gov/npfmc/) was having one of their quarter-annual meetings. Hearing that the meetings were public, I decided to head on down to Council office to check out a part of the process that decides my fate as an observer. I attended several sessions, covering proposed halibut charter Individual Fishing Quotas (IFQs); proposed Gulf of Alaska groundfish rationalization (an IFQ type program); and the Community Development Quota (CDQ) program. Other sessions centered on setting Total Allowable Catches (TACs) and quotas for the coming year.

The Council process was very interesting to witness. First, members of the various panels and committees listen to proposals and public comment. Then, there is a question and answer period and the proposals are voted upon. I found myself enthralled by the entire procedure, not unlike going to a state or national capital and watching the legislature make the laws that govern us. But these are fishery laws they are dealing with, directly affecting the very work U.S. Fisheries Observers do! The Councils often utilize observer data when making their decisions, and those decisions in turn directly affect the type of data observers collect. The council meetings are completely open to the public, open to public comment (if you've got the guts- I didn't), and I would highly recommend (to all observers) attending a meeting in your region- to be informed of the process that effects your livelihood!

**** Links to all United States Fisheries Management Councils can be found on the National Marine Fisheries Services Website, at: www.nmfs.noaa.gov/councils.htm .*

NEWS FROM THE BOARD:

ANNUAL BOARD MEETING UPDATE

We held our annual meeting for the APO Board members in Eugene, Oregon the week of December 14th-16th 2005. On Wednesday the 14th, Liz invited the Board over to her house for some homemade pancakes before hosting the meeting. Dave and Mark were present, while Keith called from Arizona and Kim called in from Dutch Harbor, Alaska to participate in some discussions. On Thursday the 15th, while Liz was traveling up to Seattle to begin her vacation in Hawaii, Keith was headed down from Seattle (after flying in from

Arizona). Kim tried to make it down, but ended up being snowed in at Dutch Harbor. Regardless, Dave, Mark, and Keith were able to work all day Friday going over all of the agenda items that Liz and Keith had put together. By Friday evening, the 16th of December, we had really accomplished a lot, prioritized our objectives for the forthcoming year, and better defined each of the board members roles in the APO. Later on in December, Kim was able to make it down to Eugene for a couple days when she and Dave worked hard to revitalize the APO website and to integrate our communications systems with ObserverNet. For more detailed information regarding our great December 2005 APO Board meeting check out APO News on www.observernet.org .

***** You can actively participate in the APO by: sharing with us ideas and concerns; by writing articles or letters to the editor for the Mail Buoy; by alerting us of any job announcements or upcoming research; or by becoming involved in the on-line Observer Working Groups. Please, e-mail us at: apo_obs@hotmail.com (APO), emitch@efn.org (Liz Mitchell); lblegend@yahoo.com (Keith Davis), davewagenheim@hotmail.com (David Wagenheim), or siberio@hotmail.com (Mark Wormington). You should expect an answer within 3 weeks if we're all at sea or within a day or two if one of us is in between boats.**

LETTERS TO THE EDITOR:

***** None currently- Please submit Letters by e-mail with the phrase "letter to the Editor" in the subject heading, to be clear of the intent of the message.**

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***** Mail Buoy submissions for the next newsletter are due by the end of APRIL 2006..**