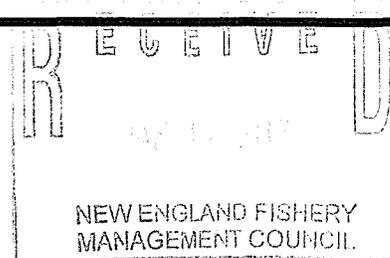


#9a.

# ADDITIONAL CORRESPONDENCE

**Joan O'Leary**

**From:** Dick Grachek <dickgrachek@gmail.com>  
**Sent:** Saturday, January 14, 2017 11:03 AM  
**To:** Tom Nies  
**Subject:** Comment on IFM Omnibus amendment



Dear Tom,

I'm writing this in response to the Council taking final action on the Omnibus Industry Funded Monitor amendment at the Portsmouth, New Hampshire meeting on Tuesday, January 24, 2017.

**I don't support the omnibus amendment going forward, and I don't support Industry Funded Monitoring in any fishery, because in my situation it's simply not financially possible for my fishing business to pay. A full amendment should be required, and is certainly a more democratic procedure, if an IFM program is considered. An omnibus "Fast track" on something so important is not acceptable, and is not in keeping with the requisite representation of timely public input.**

**In the name of integrity and decency and in the name of my family and the four other families dependent on the survival of this fishing business, this omnibus amendment must not be passed. This amendment would expedite or "fast track" the implementation of fishermen having to pay---to a private company---for a government mandated observer program, without due process and representation.**

My fishing vessel, the 80 foot Anne Kathryn, provides income for four families plus income for my wife and me. Our fishing year has been whittled down and relegated to essentially two species: Squid and Fluke---and the Mid-Atlantic Council is working diligently on removing Fluke from the realm of feasibility with upwards of 70% allocation decreases by 2018. This leaves us with Squid fishing for the major part of our yearly income.

Being almost entirely reliant on Squid fishing renders us barely profitable over the year. Our groundfish landings (which was formerly 50% of our income) have literally been taken away through the "fast-tracked" catch shares program. So, when Squid are not abundant or when they have been shut down through the trimester allocation process, my vessel literally has no cash flow whatsoever, but the bills for this vessel come every month. I can barely keep the business going by relying on the receipts from the few months of good fishing. Any additional costs would render this business not viable.

fh 1/20/17

If I have to pay \$3,000 to \$4,000 a trip for an observer to a "for-profit" company when we *are* allowed to fish, that would eat up enough money to classify *my* business as a "Non-Profit". I simply wouldn't be able to pay bills. And I certainly wouldn't have anything left over to get through the dry periods---we would soon be out of business. My single licensed, single vessel fishing business cannot tolerate another financial insult. This added burden of observer payments will destroy my fishing operation and the income of 4 families dependent on its revenues.

No other industry has to pay for its own policing---whether it's labeled "monitoring" or "observers". I am sure that you are aware that this has been accomplished exclusively for fishing through a lawsuit brought by Oceana which manipulated NOAA funding allocation within its own observer programs.

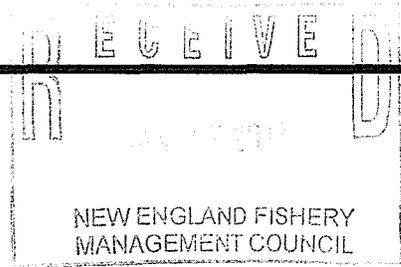
And I often wonder about the entire matter of having someone looking over our shoulder. When did risking life, limb, and a great deal of family-invested money, in order to provide healthy, un-chemicalized, and beneficial abundant fresh fish to a hamburger poisoned public...when did that become "possible criminal activity"? And when did fishermen become "persons of interest" warranting this kind of scrutiny---or, more accurately, surveillance?

And as far as by-catch and its "prevention" is concerned, if the regulations were even close to being in proportion to the amount of fish that are actually out there, fish that we encounter on a daily basis up and down the coast, there wouldn't be a "by-catch problem."

Dick Grachek, Mystic CT  
F/V Anne Kathryn

**Joan O'Leary**

**From:** Edward Everich <ejeverich@gmail.com>  
**Sent:** Sunday, January 15, 2017 5:01 PM  
**To:** Tom Nies  
**Subject:** Observer ruling by "Omnibus Amendment"



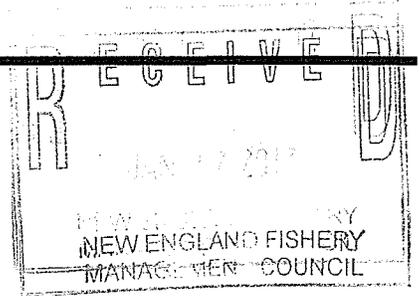
Tom,  
As a retired fisherman from Pt. Judith, Rhode Island and as a person who has spent the last 50 + years on the water, 4 years in the USCG, the balance either fishing commercially as owner / Captain of 2 small day Trawler's and a Gillnetter .  
The time not fishing has been in fishing related support industries or as a licensed Tug Operator.  
My son left the New England Fishery for Alaska primarily due to the regulatory turmoil and problems with reduced quota. He is one of the youngest Trawler Captain's in the Pollack fishery out of Kodiak.  
Myself, my son and many of my closest friend's have been severely impacted by the lack of a sound management scheme in New England both at the State and Federal level.  
I am totally opposed to any additional financial burden being placed on the Commercial fleet of New England especially by "fast tracking" through the use of the "Omnibus Amendment" or any other method that does not allow Fishermen the right to be treated with the utmost of due process.  
Adding these Observer costs to the boat is pure insanity and one can only assume that the regulatory goal is to force these people out of business.  
Shame on us all if this is allowed to happen !!  
Sincerely,  
Ed Everich

fn 1/20/17

**Joan O'Leary**

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**From:** Don DeBerardino II <dondnanuk@gmail.com>  
**Sent:** Sunday, January 15, 2017 7:40 PM  
**To:** Tom Nies  
**Subject:** observers



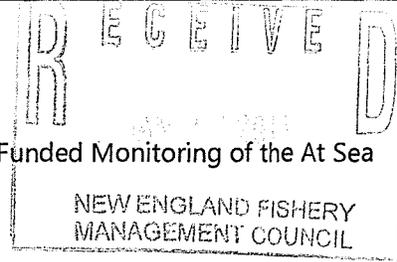
Please you all cannot be serious on charging me \$700-\$800 per day for an observer on my boat. I DO NOT make that much money in a day to pay my self etc. With due respect this is nuts! Can you explain this to me. Also this bum rush to get this passed SO quickly!  
Thank you Don DeBerardino II

fh 1/20/17

**Joan O'Leary**

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**From:** Joel Hovanesian <jhovanesian1@gmail.com>  
**Sent:** Sunday, January 15, 2017 3:00 PM  
**To:** Tom Nies  
**Subject:** Omnibus amendment for the "IFM" or Industry Funded Monitoring of the At Sea Monitor (ASM) program.

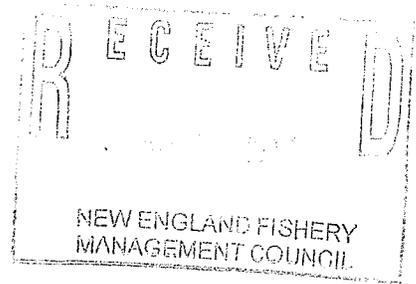


Mr. Nies,

My name is Joel Hovanesian and I am a lifelong commercial fisherman from Pt. Judith RI. I am writing you to voice my total opposition to this industry destroying program. I will not bore you with the details as to the reasons but rest assured there are many. This seems like yet another attempt by the federal government to continue to drive stakes through the heart of an industry that they have slowly but surely been killing by the way of death by a thousand cuts. Enough with this waste of time and money that is destroying our way of life. This whole program is by its very definition nothing but crony capitalism which is filling the bank account of a former regional administrator who came up with this scam years ago then built a company to profit from his ill advised idea. Enough is enough!

Sincerely,  
Joel Hovanesian  
F/V Defiant, Pt. Judith RI

Ph 1/20/17



**From:** Sam Parisi [mailto:samparisi42@gmail.com]

**Sent:** Sunday, January 15, 2017 6:35 PM

**To:** Tom Nies

**Subject:**

As a retired fisherman in Gloucester and still has family in the business I am opposed for our vessels to pay for monitoring, the government impose this they should pay for it not our fisherman they are having a hard time of paying their bills.

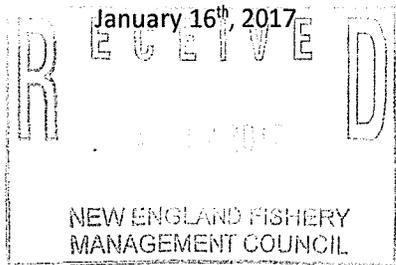
To continue I will be contacting other fisherman and, other organizations for their support also to voice their opposition to the monitoring. If there is anything else I can do to help let me know and thank you.

Sam Parisi

Gloucester ,Mass

Ph 1/20/17

35 Congdon Hill Road  
Saunderstown, RI 02874



Thomas A. Nies  
Executive Director  
New England Fishery Management Council  
50 Water Street, Mill 2  
Newburyport, MA 01950

Mr. Nies,

This is to formally register my concern over the action NEFMC contemplates for its scheduled meeting of January 24<sup>th</sup>, 2017, in Portsmouth, New Hampshire.

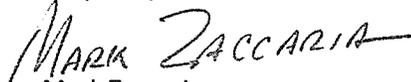
Specifically I oppose the proposed forced increases of daily operating overhead costs that would result from adoption of Industry Funded Monitoring of the At Sea Monitor (ASM) program. You have to realize that the business model of the traditional fishing trawler has been made more and more tenuous in the last decade as it has been caught in the vise of increasing costs and severely limited catches with which to cover those costs. IFM is projected to increase the daily overhead costs for a trawler by nearly \$900. Worse yet, the Council's choice to initiate this program through the passage of an Omnibus Amendment dramatically compresses the time during which this move can be debated. Given that working fishermen do their work at sea, the more options for public comment ashore before locking-in new regulations like this one the greater the chance those most affected by them will be heard.

Please count this as a comment against the proposed move on the 24<sup>th</sup>.

As a working politician here in Rhode Island I have become more acquainted with the regulatory environment under which Ocean State's oldest profession labors than I might have if I were just a consumer of their catch. I have seen the toll that has been taken on the working fleet by such problems as fuel prices, catch shares, and the existing cost of monitoring at sea. I believe this background gives me standing to make an informed comment on the IFM Proposal. I hope you will give my thoughts your full consideration in light of that standing.

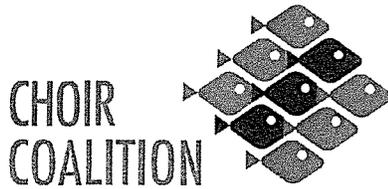
If you have any questions or comments on my position with regard to this measure, please do not hesitate to call or write.

Very Truly Yours,

  
Mark Zaccaria

Cell: 401.225.5051

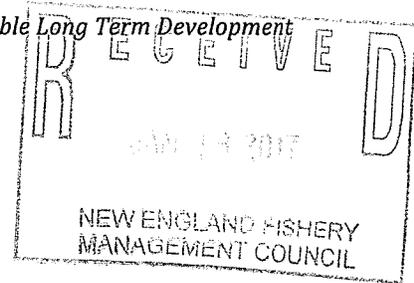
Ph 1/20/17



*Coalition for the Atlantic Herring Fishery's Orderly, Informed and Responsible Long Term Development*

November 7<sup>th</sup>, 2016

Mr. John K. Bullard  
Regional Administrator, NMFS  
Greater Atlantic Regional Fisheries Office  
55 Great Republic Drive  
Gloucester, MA 01930



Re: Comment on the Industry Funded Monitoring Omnibus Amendment

Dear John,

I am writing on behalf of CHOIR to comment on the Industry Funded Monitoring Omnibus Amendment (“Amendment”). CHOIR is an industry coalition made up of over 650 commercial and recreational fishing organizations, fishing and shore-side businesses, researchers and eco-tourism companies that all rely on healthy herring and mackerel resources. Before going into specific comments on the Amendment, we will first make a couple general comments.

This action is the culmination of a great deal of effort on behalf of fishery managers and stakeholders that began in 2008 in response to serious and widespread concern over the lack of accountability in the herring and mackerel midwater trawl fisheries. It must be noted that this is the second final action that has occurred in relation to this important matter. After four years of work, the public came out in force in 2012 during the comment period for final action on Amendment 5 in support of 100% observer coverage and a prohibition on slippage. Few fishery actions in recent times have garnered the level of public response that was seen during that comment period. In turn, the Council voted overwhelmingly in support of 100% coverage and strong slippage measures. But, as we all know, the agency then declined to approve the amendment—leading us to where we stand today.

Despite the strong support for 100% coverage and slippage accountability four years ago, we have somehow seen a decline in coverage rates in the herring midwater trawl fishery ever since. In fact, coverage over the past year was the lowest in a decade. The result: the largest and most powerful fleet in the region—a fleet that targets keystone forage species and is proven to have serious problems with bycatch—has been allowed to operate with essentially zero observer coverage. When you combine all the relevant factors—small mesh size, vessel speed and power, volume landed per tow, and the ability to fish anywhere in the water column—the potential for impacts by this fleet on the ecosystem

and those that rely on it are very high, and the excuses for allowing such a lack of accountability are non-existent.

As such, there is arguably more concern over what is happening on the water today than there was four years ago. But the public has lost faith in both the Council and NMFS after watching their massive level of effort and support lead to a disapproved action and an actual decline in accountability since 2012. The time has come for both the Council and NMFS to do what is necessary by choosing and implementing measures that finally address the lack of accountability in this fishery. As we have said all along, that will require two things: 100% monitoring and full slippage accountability. And both parts are equally important—it is a total waste of time if you put a system in place that addresses one without the other.

We will now offer our recommendations on how to get there.

### Specific Recommendations

#### *Herring*

First and foremost, we want to make it very clear that our focus in this action is the midwater trawl fleet. While some in the herring industry have tried to lump both seiners and small-mesh bottom trawl (SMBT) vessels into the program in order to create delay and inaction, we believe the only priority moving forward should be to address the lack of accountability in the midwater trawl segment of the fishery. These boats are responsible for the majority of landings and have the most potential for bycatch due to the nature of their gear. While the Council and NMFS may choose to address the rest of the herring and mackerel fisheries at a later date, we strongly urge you to focus on the large midwater trawlers at this point in time.

Second, when we first began work on this action back in 2008, CHOIR's initial stance was that the best long-term solution in this fishery was to use Electronic Monitoring (EM). Our initial proposal laid out a maximized retention system that would couple the use of cameras on the vessels with a shoreside-monitoring program to allow for managers to gather adequate data on what was being caught in the fishery. After facing stiff opposition from the industry, we eventually shifted to supporting 100% observer coverage, but all along we believed that EM was the future. We have now come back to that position and feel that EM holds the most promise moving forward.

But there are a number of questions that arise when we start to envision an EM program in the herring and mackerel midwater trawl fisheries. First, is it possible that developing the EM system will take time? If so, we do not want to see a total lack of coverage in the interim. This fleet needs coverage now—not in a year or two—and so something needs to be in place while we develop the EM program. Second, is it also possible that after spending time developing an EM program, the Council and NMFS may determine it is not a feasible option? If so, we need a backup plan.

As such, we support moving forward with a *modified Herring Alternative 2.7*. We support a modified version because we only want it to cover the midwater trawl fleet, while the purse seine and SMBT vessels would remain under SBRM coverage. We recommend choosing 100% ASM coverage under this alternative. And under an EM

program, we would recommend running the cameras from when the gear first goes into the water until the vessel hits the dock, while having a minimum of 50% shore-side monitoring. Levels of video review will be less important than the level of video coverage, but we would recommend 30% video review at a minimum.

Such a modified Alternative 2.7 will ensure that many of our concerns are covered. First, it will give the Council and NMFS time to develop the EM program without a period of time with little or no coverage. Under this alternative, while the pilot project is ongoing there will be a high level of ASM coverage in place to ensure accountability. Second, it will ensure that there is a strong monitoring program in place if the Council and NMFS find that EM will not work. And third—because ASMs are less expensive than NEFOP observers—it will do all of the above in a more affordable fashion than if NEFOP-level observers were chosen.

Now, it should be noted that this alternative technically allows for the industry to choose to use ASMs even if EM is shown to work, and therefore it could appear to go against our call for using an EM program in the future. But we are confident that a well-designed and effectively implemented EM program will be the obvious choice for those in the industry, and so this mixed alternative will ultimately turn into an EM alternative. But, in the unlikely scenario that ASMs are seen as the cheaper and better alternative, we are confident that they will allow for full monitoring and slippage accountability moving forward.

In regards to the **sub-options** listed in the document, we only support sub-options 2 and 4, and do not support the other sub-options. We *strongly* oppose sub-options 1 and 4. Sub-option 1, in allowing waivers, would potentially undercut the entire system since a waiver could theoretically be used on every trip in a fishing year. If the Council and NMFS foresee specific, genuine examples of when a waiver would be needed that does not create a massive loophole, it should try and limit the scope of the waiver sub-option in the document rather than simply allowing waivers across the board. And sub-option 3 makes absolutely no sense whatsoever—we have spent almost a decade on this action, it would be ridiculous to only put in a system for two years after implementation. This fleet needs strong monitoring forever if it wants to operate off our coasts.

Lastly, we will reiterate that any monitoring system that does not address slippage is a waste of time. So we hope that no matter what choices are made in the future, that the Council and NMFS ensure that slippage is fully considered. That means that, whether we use EM or ASMs, that slippage is accounted for and, if we do move forward with EM, that the slippage consequence measures in place now be carried forward.

### ***Mackerel***

We support choosing **Mackerel Alternative 2.5**. We would again recommend 100% ASM coverage. And under an EM program we would again recommend running the cameras from the moment the gear is first set into the water until the vessel is back at the dock along with a minimum of 50% shore-side monitoring. This would be partnered with a minimum of 30% video review. And as mentioned in the Herring section above, we only support sub-options 2 and 4, and strongly oppose sub-options 1 and 3.

### **Designing an EM Program**

### ***EM Pilot Project***

First, we strongly support the effort by NMFS to conduct an EM pilot project in the midwater trawl fishery. But we believe that it is critically important for the agency to ensure that all relevant stakeholders are allowed to oversee the ongoing work being done under the project. There are two reasons for this. First, many of the non-herring stakeholders involved in management of the herring fishery have expertise on the ocean that may help inform the pilot project. If non-herring stakeholders are excluded from the process, it may hinder the project's success. And second, transparency is an important matter moving forward. If the public is kept in the dark as the project moves forward, it will only make matters worse. As such, we again strongly urge NMFS to find a way to keep interested stakeholders involved as the project is undertaken.

Also, we will attach at the bottom of this letter another letter we submitted to the agency in June of this year. This second letter outlines many of our concerns with how the PIP was structured at that time. While some of these concerns may have been addressed, we want to include the letter in full to have it on the record for this action.

Lastly, we would strongly urge the agency to bring in people involved in the day-to-day operation of the project that understand the gear and are able to troubleshoot in order to truly figure out if a certain problem can be addressed or not. These boats are not the most complex boats on the ocean, but it is vital to have people involved that can answer questions on their own instead of relying on a captain or crew to tell them if something can be done. The captain and crew may have something to gain by the project failing, and so the agency needs to remain vigilant.

In short, we strongly believe that a pilot project is absolutely essential to the efficacy of an EM program in the herring and mackerel midwater trawl fisheries. We commend agency staff for taking the initiative to find the necessary funding and time to get this rolling. But if the project is not done correctly than it may lead to a lot of lost time and money, and so we hope NMFS will do all it can to make sure the project is effective.

### ***Specific EM Program Recommendations***

First, as mentioned above, we believe that it is important for the EM program to be part of a larger system of maximized retention. Make the boats bring everything to port so that the shore-side monitors can sample and account for what was caught. This is the key to an EM program. And you must keep the slippage consequences in place to deter slippage—otherwise there is zero incentive for the captains to follow the rules. And to be clear, an affidavit is NOT adequate.

Second, it is critical that the cameras run from the moment the gear first goes into the water until the vessel hits the dock. If you stop running the cameras at any point after the first tow, then you will provide the vessel with a loophole. The level of video review is less important to the efficacy of an EM system than the video coverage level itself, but we would still recommend no less than 30% review. As long as the level is high enough, you can provide a deterrent without wasting money.

Third, as with any monitoring system in the herring and mackerel midwater trawl fisheries—it is critical for a full and accurate accounting of slippage to be central to the system. No amount of observer or camera coverage will be useful if slippage is not accounted for fully. We strongly recommend that the Council and NMFS keep the goal of slippage accountability front and center at all times.

While there are a number of steps that can be taken to ensure that an EM program accounts for slippage, we believe that using net sensors is of critical importance. These vessels all have net sensors that give the captains an accurate idea of what is in the net while it is being towed. By looping this data into the EM system, NMFS will have an easy method for knowing if slippage is occurring. For example, if the net sensors show that the net has 200,000 pounds in it, and then that net comes aboard empty, you will know catch was slipped. Perhaps the Study Fleet data can be brought into the system to help you in this regard. This and other steps are critical to an effective EM system.

Lastly, we urge the agency to work with HMS staff and other parts of the agency that have dealt with the implementation of EM programs in the past. There is a lot of expertise that can be brought into this process by talking with those that have already been down a similar road.

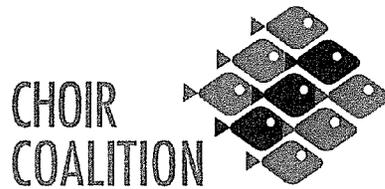
### **Conclusion**

The herring and mackerel midwater trawl fleets are the most powerful fleets on the east coast. There is simply no excuse for these boats to have such a weak and inadequate monitoring system. While we understand that this has not been an easy process and that some delay was needed to get things right, the time has now come for action. We urge both the Council and NMFS to do what is right and put a strong monitoring system in place when it meets to make decisions on this Amendment.

Thanks for your time,

A handwritten signature in cursive script that reads "Stephen B. Weiner".

Steve Weiner, Chair



*Coalition for the Atlantic Herring Fishery's Orderly, Informed and Responsible Long Term Development*

June 13<sup>th</sup>, 2016

Mr. John Bullard, Regional Administrator  
National Marine Fisheries Service  
Greater Atlantic Regional Fisheries Office  
55 Great Republic Drive  
Gloucester, MA 01930

Re: Mackerel and Herring Electronic Monitoring Pre-Implementation Plan

Dear John,

I am writing on behalf of CHOIR to provide comments on the Pre-Implementation Plan (PIP or pilot program) for electronic monitoring in the Atlantic mackerel and herring fisheries. CHOIR is an industry coalition made up of over 650 commercial and recreational fishing organizations, fishing and shore side businesses, researchers and eco-tourism companies.

We appreciate that GARFO has sought the money to develop this pilot program and that your staff has taken time to meet with us and provide some of the details we've been seeking for the last few months. However, the PIP, which is scheduled to begin in less than a month, will be unable to inform the future monitoring program unless serious changes are made to its design. We have identified the following problems and practical solutions that should be addressed prior to the start of this pilot program:

Problem No. 1: There is insufficient accountability in this fishery. Solution: We support the "key data analysis and reporting tasks" outlined in NMFS project summary document. In particular, we support efforts to: review 100% of all fishing activity, identify all discards, identify contents of the net at the end of pumping (i.e., operational discards), and identify interactions with protected species. However, the pilot goals are currently administrative in nature and should reflect the collection of this information. We recommend an additional goal to evaluate the efficacy of EM to detect all discarding activity and compliance with slippage requirements.

Problem No. 2: The slippage reporting and consequence measures will not apply to a PIP trip without an observer. Solution: Slippage restrictions and reporting requirements must apply on every "observed" trip (PIP or NEFOP). Testing EM's ability to monitor compliance with

slippage measures on only a portion of observed trips is not acceptable. The PIP must provide a complete examination of this issue, which is of tremendous concern to CHOIR and many other stakeholders.

Problem No. 3: The importance of operational discards is underestimated. Large amounts of slippage can occur at the end of a trip. Solution: Operational discards should be documented on all trips. This should be an explicit goal for this PIP. Pumping in the water is a problem to the degree that it is an obstacle to monitoring this fishery. Operators need to find a way to bring the net onboard—and we believe this is possible. But if they are unable to make their catch available for viewing, then maybe this gear is not fit for use in these fisheries.

Problem No. 4: The PIP standards are not well understood. Solution: NMFS should provide a list of specific standards that will guide the proposed EM/PS program through the PIP.

Problem No. 5: There is continued reliance on self-reporting in this fishery and there is trust that slippage is accurately documented. Solution: NMFS should ensure redundancy during the PIP and compare video review of the EM/PS PIP trips with the reports filed by the NEFOP observers on those same trips (37% of the time) for discrepancies. This analysis should be made public.

Problem No. 6: The PIP will not document the weight of slipped catch. Solution: NMFS should coordinate with the study fleet to ensure that participating vessels with net sensors document the weight of slipped catch.

Problem No. 7: The PIP should meet the goals of the IFM Amendment. NMFS project summary indicates that “identification of discarded fish is not necessary for the purpose of this project” but obtaining accurate estimates of catch (retained and discarded) is a specific goal for the IFM amendment. Solution: Revise the goals of the PIP.

Problem No. 8: The PIP will not improve the documentation of all catch (species composition) in this fishery. NMFS, NEFMC and MAFMC should view the PIP as an opportunity to collect necessary information to inform the development of a comprehensive EM/PS program, including design and implementation of a maximized retention (which should be a necessary component of this program). Solution: (1) NMFS should signal a move towards maximized retention – require all catch in this PIP to come to port (with limited exceptions) and audited discard logbook similar to the one used on the West Coast; (2) all vessels in the PIP should land in a port capable of portside sampling.

Problem No. 10: There’s a mismatch between PIP and final decisions on the IFM Amendment – the PIP concludes in fall 2017, final action in fall 2016, effective date is March 2017. Solution: Perhaps a Letter of Authorization to fish?

Problem No. 11: The funding limitation of \$400,000 will not allow all of these solutions. Solution: Run a pilot program with fewer vessels (2 or 3) in order to gather all of the information necessary to inform a future EM/PS program. Find incentives to reward these few participating boats. Maybe give them the cameras at the end of the PIP.

We have fought for many years to bring about better monitoring in this fishery. While we believe an EM pilot program has a lot of worth, it must be done right or else there will be a lot of wasted time and money. And we believe that unless the steps above are taken, this project will not have the ability to inform an effective monitoring program down the road.

Thanks for your time,

A handwritten signature in cursive script that reads "Stephen B. Weiner".

Steve Weiner, Chair