

Alaska Salmon Fishery
MSC Notice of Objection

Instructions

The MSC Objection Procedure is included in the [MSC Disputes Process v1.1](#).

The MSC Objection Procedure provides an orderly, structured, transparent and independent process by which stakeholder or client objections to the Final Draft Report and determination of a certifier (or Conformity Assessment Body) can be resolved.

The Objection Procedure is not intended to review the fishery against the MSC Fisheries Standard, but to determine whether the certifier (CAB) made an error of procedure, scoring, or condition setting that is material to the determination or the fairness of the assessment.

[Learn more about MSC objections >](#)

Please complete all unshaded fields. All notes and guidance are indicated in italics, please delete and replace with your specific information where relevant.

The MSC Notice of Objection Template should be completed and sent to objections@msc.org. Please ensure you complete Sections 1.1 and 1.2. Depending on the selected objection category in Section 1.3, complete Section(s) 1.4-1.7 accordingly.

Information on objection costs and a link to the MSC Notice of Objection Fee Waiver Template can be found in the appendices.

1. Marine Stewardship Council Notice of Objection

1.1. Your details


Table 1: Contact details

1	Contact name
First*	Last*
Yann Rouxel	
2	Title
Mr	

Table 2: Organisation details

1	Organisation*
The Royal Society for the protection of Birds (RSPB)	
2	Department
Global Conservation	
3	Job title*
Bycatch Programme Manager	
4	Description
The RSPB is the UK's largest nature conservation charity, inspiring everyone to give nature a home. Together with our partners, we protect threatened birds and wildlife so that our towns, coast and countryside will once again teem with life. The RSPB is BirdLife partner organisation in the UK, and host to the BirdLife International Marine Programme working to improve the conservation status of global seabird populations.	
5	Phone
6	Email*
yann.rouxel@rspb.org.uk	

Table 3: Assessment details

1	Fishery name*
	Alaska Salmon Fishery
2	CAB*
	MRAG Americas
3	The following objection is being lodged on behalf of the above-named organisation(s) and I am authorised to make this submission on their behalf*
	15/04/2024 

*Required information

1.2. Objecting party's involvement

Table 4: Prior involvement with this assessment

Fishery client (MSC Disputes Process v1.1, 5.4.1.a)	Yes
Written stakeholder submissions (MSC Disputes Process v1.1, 5.4.1.b)	Yes
Meetings attended (MSC Disputes Process v1.1, 5.4.1.b)	Yes
Participation prevented or impaired (MSC Disputes Process v1.1, 5.4.1.c)	No

Table 5: Evidence

1	Supporting evidence of prior involvement in the assessment
	<p>Below is the list of our prior involvement in the assessment process of the Alaska Salmon Fishery.</p> <ul style="list-style-type: none"> • 2019 – input to Public Certification Report; “MRAG Americas received the following comments from Mr. Yann Rouxel, Bycatch Project Officer with RSPB/Birdlife International”. • 2019 - participated to ADFD (fishery client) sponsored workshop organized to address stakeholder concerns (RSPB/BirdLife) regarding bycatch of birds in Alaska commercial salmon fisheries, identified in public comments on the 3rd Marine Stewardship Council reassessment of this fishery completed in 2018. <ul style="list-style-type: none"> ○ RSPB/BirdLife presentation delivered, reviewing concerns regarding the bycatch of seabirds in gillnets of Alaska commercial fisheries. Concerns regarding the adequacy of the available test fishery information. Concerns included poor and outdated data, areas not covered, temporal gaps, information not fit for purpose, seasonal effects, and unrepresentative gear. Birdlife considered this information inadequate for assessing bird impacts. • 2020 – Participated to 1st Surveillance Report, with New Condition (#10) raised; <ul style="list-style-type: none"> ○ “By the 4th annual audit, the client must demonstrate that there is a process in place to ensure a regular review of the potential effectiveness and practicality of alternative measures to minimise Unit of Assessment (UoA) and enhancement related mortality of ETP seabirds (particularly murrelet species), and they are implemented as appropriate”. • 2021 – Participated to 2nd Surveillance Audit/Report • 2022 - Participated to 3rd Surveillance Audit/Report • 2022 – input to ACDR (msc-template-for-stakeholder-input-into-fishery-assessments_Alaska Salmon Fisheries_RSPB inputs.xlsx) • 2022 – Participated to 2nd workshop sponsored by ADFD “to review current information on the status and fishery interactions with sensitive murrelet species. An ecological risk assessment was prepared as a product of this workshop (Wilson et al. 2022)”. • 2023 - Participated to 4th Surveillance Audit/Report; submitted written comments during consultation period. • 2023 – input to PCDR (RSPB_Alaska Salmon_PCDR_ZJ&YR_05102023.xlsx)
2	Background

The RSPB's interest in this fishery and its certification is focused on seabird bycatch. Seabirds are the most threatened group of birds globally, with 30% of species considered globally threatened (BirdLife International, 2022) – of all threats, bycatch in fisheries has the greatest impact on populations (Dias *et al.*, 2019). It is therefore vital that all fisheries – in particular those seeking certification as sustainable – properly monitor, document and manage seabird bycatch to minimise impacts on their populations.

Gillnets are estimated to have the highest seabird bycatch of all fishing gears, in terms of numbers of individuals caught (Žydelis *et al.* 2013). An estimated 20,000 birds are bycaught in gillnets per year in the Northeast Pacific, where this fishery operates – however, there is a critical gap in bycatch data in Alaska, where seabird diversity and abundance is very high, meaning this is likely an underestimate (Piatt *et al.*, 2007; Žydelis *et al.* 2013). This fishery overlaps with a number of seabird species that are at-risk from gillnet bycatch, including the globally Endangered Marbled Murrelet (*Brachyramphus marmoratus*) (BirdLife International, 2020).

We have been engaging with this fishery's certification process since 2019, when we raised concerns that the absence of a monitoring programme prevents the possibility of properly assessing the magnitude of seabird bycatch occurring in this fleet, particularly in regard to the Marbled Murrelet population. After roughly five years of continuous engagement, we are particularly concerned with the lack of actions and overall improvement demonstrated in this fishery (no new bycatch data collected, no mitigation efforts, biased and unreliable analysis, absence of evidence). The Conformity Assessment Body (CAB) has decided to dismiss most – if not all – of our stakeholder input and evidence provided (e.g., see Stern-Pirlot *et al.*, 2024, p. 356) that demonstrates that the fishery's bycatch levels could have a significant impact on the Marbled Murrelet population in Alaska (and/or at global level), and that – at the very least – the data used in their assessment (Alaska Marine Mammal Observer Program [AMMOP], "Ecological Risk Assessment" [ERA] from Wilson *et al.* 2022) is not appropriate to unilaterally decide to close the previously raised condition (#10), nor to conclude on the lack of population impact this fishery might have on seabird species (especially Marbled Murrelets).

Given the clear potential conservation issue and the lack of reliable data made available to stakeholders, we are deeply concerned that the CAB deemed it not necessary to, at the very least, raise a series of new conditions during this re-certification process to ensure that the seabird bycatch issue in this fishery is finally tackled. Failure to do so will directly impact the credibility of the MSC certification standard when it comes to the protection and consideration of ETP species; particularly towards the protection of globally threatened species such as the Marbled Murrelet.

**All references cited in Section 1.6 are listed at the very end of this document.*

1.3. Your objection

Table 6: Objection category

Are you objecting on the basis that, in your opinion: (please select any that apply)	
There was a serious procedural or other irregularity in the fishery assessment process that was material to the fairness of the assessment (MSC Disputes Process v1.1, 5.9.2.a). Complete Section 1.4.	No
The CAB review of the Client Action Plan cannot be justified because the conditions fundamentally cannot be fulfilled within the allocated time frame (MSC Disputes Process v1.1, 5.9.2.b). Complete Section 1.5.	No
The score given by the certifier (CAB) in relation to one or more of the Performance Indicators cannot be justified, and the effect of the score in relation to one or more of the particular Performance Indicators in question was material to the determination (MSC Disputes Process v1.1, 5.9.2.c). Complete Section 1.6.	Yes
Additional information not forming part of the record (MSC Disputes Process v1.1, 5.8.5.a) that is relevant to the circumstances at the date of determination has not been considered (MSC Disputes Process v1.1, 5.9.3). Complete Section 1.7.	No

1.4. Procedural Issues

Table 7: Content

1	Procedural issues
	n/a
2	Other
	n/a.
3	Effect on the determination
	n/a

1.5. CAB review of Client Action Plan

Table 8: Conditions

1	Performance Indicator
	n/a
2	Condition
	n/a
3	Reason
	n/a
4	Supporting justification
	n/a

1.6. Scoring

Table 9: Scoring

1	Performance Indicator
	PI 2.3.1 SI b – ETP species outcome: Direct effects
2	Reason
	<p>The scoring of 80 for PI 2.3.1.b in regard to impacts of this fishery on threatened seabird populations (particularly the Marbled Murrelet) is too high as the decision cannot be justified based on the evidence available. One or a series of new Conditions should have been raised.</p> <ul style="list-style-type: none"> The evidence used for this scoring are clearly outdated, unrepresentative of the fishery's UoAs, largely qualitative, and do not meet minimum scientific requirements. The available data, nonetheless, still suggest the risk of bycatch in this fishery to threatened seabird populations – particularly the Marbled Murrelet (<i>Brachyramphus marmoratus</i>) – could be more significant than recognised by the CAB. Clearly, the available information <u>do not</u> support the CAB conclusion that “<i>direct effects of the UoA including enhancement activities are highly likely to not hinder recovery of ETP species</i>”. <u>Scoring of PI 2.3.1.b - at or above 80 - is therefore unjustified.</u> Despite expressing these issues on numerous occasions in past assessment stages, there has been an overall lack of improvement in relation to seabird bycatch concerns in this fishery since we first engaged. The available evidence fails to support the CAB's conclusion that this fishery is highly likely to not hinder the recovery of at-risk seabird populations.
3	Supporting rationale and or evidence
	<p><u>Scoring for direct impact on Murrelet populations based on outdated and limited data.</u></p> <p>The CAB uses AMMOP observer data to conclude that there are low levels of seabird bycatch in this fishery and therefore direct effects are highly likely to not hinder recovery of threatened species: “<i>Marbled and Kittlitz's murrelets</i>”</p>

are subject to small levels of incidental bycatch in gillnet fisheries based on AMMOP observer data. However, the level of annual mortality likely experienced in the gillnet fisheries is relatively insignificant to the total population and would not likely hinder a rebound of the population to historic numbers given favourable environmental and habitat conditions (MRAG 2020)” (Stern-Pirlot et al., 2024, p. 211). **We cannot consider this data to be reliable to justify this conclusion**, due to the following limitations:

- **Outdated and temporal limitations:** No new monitoring and bycatch data have been collected by the AMMOP programme since 2013 (Manly, 2015), despite our continuous engagement about this issue in past assessment stages. Also, as each report only covers one region or part of a UoA, some regions have not been monitored for 16-34 years. These data are too outdated to represent current bycatch risk and reliably conclude that bycatch levels are low, and thus to be considered adequate evidence for this scoring.
- **Insufficient observer coverage:** p.171 of the Alaska Salmon 4th Re-assessment; “*Sampling rates varied from < 1% to 7% - most coverage was 4-5%*” (Stern-Pirlot et al., 2024).
 - This is only partially true; on top of the lack of spatial coverage (see below) meaning that several UoAs were never monitored, the coverage of those monitored occurred over a maximum of one or two years across a 23-year period (1990-2013). This means that the real annual coverage in this fleet is in reality orders of magnitude lower. The real annual coverage across the fleet has never been reported.
 - We also refer to Babcock et al., 2003, which is the most recognised scientific reference to assess appropriate observer coverage to estimate total bycatch with sufficient accuracy and precision. The paper states that between rare and common species (defined as <0.1% and 35% of total catch, respectively), the required level of coverage is >50% for rare species and 17% for common species. Under this threshold, and based on the CAB's argument that Murrelets are unfrequently caught (“*subject to small levels of incidental bycatch*” (Stern-Pirlot et al., 2024, p. 211)), Marbled Murrelets would fall into the “rare species” category. The coverage of the AMMOP programme, even considering the coverage listed by the CAB as ~5% in selected UoAs (in reality much lower if taken as annual rates), falls orders of magnitude below scientific recommendations. The extremely limited (and outdated) coverage does not provide sufficient information to conclude that bycatch levels are low and that they are not hindering recovery of ETP species.
- **Spatial limitations:**
 - The AMMOP programme did not cover significant portions of this fishery (UoAs). There were seven regions covered by the programme (Southeast, Yakutat, Kodiak, Lower and Upper Cook Inlet, Prince William Sound and South Unimak), only covering half of the fishery's 14 UoAs, and in 2005 only represented about 35% of the Alaska commercial salmon entry licences (Clark et al., 2006).
 - These data have not been used to produce an Alaska-wide estimate of seabird bycatch, likely driven by the limited observer coverage (which would give any bycatch estimate large confidence intervals), meaning the available data does not allow for the overall impact of the fishery on vulnerable seabirds to be reliably assessed.
 - Where data has been collected, observer effort is unevenly distributed and overall coverage is low – for example, <0.35% coverage of estimated fishing effort in the Southern District of the Cook Inlet set net fishery (Blejwas and Wright, 2012), and some regions only had monitoring in limited sub-areas. For instance, in the Southeast, only 2 of the 5 traditional driftnet fishing areas were covered (Manly, 2015), and in Prince William Sound, where most Marbled Murrelets were estimated bycaught by the AMMOP programme, only about 5% of the fishing effort was monitored by observers in 1991 (Wynne et al. 1992). This is much below the minimum observer coverage recommended by Babcock et al. 2003 (see above).

The CAB also supports its scoring for this SI based on the finding of the Ecological Risk Assessment (ERA) for Marbled and Kittlitz's Murrelets interactions with this fishery (Wilson et al., 2022): “*This conclusion was affirmed by an Ecological Risk Assessment produced by a 2022 workshop on the interaction of seabirds and gillnet fisheries in Alaska organized by AFDF (Wilson et. al 2022)*” (Stern-Pirlot et al., 2024, p. 211). We cannot consider the findings of this ERA as being reliable or following basic precautionary principle for the following reasons:

- There is a **potential conflict of interest** as the ERA was conducted by the fishery client itself and could have orientated its final conclusions. The ERA should have been commissioned to an independent and recognized scientific entity.
- **No new quantitative bycatch data:** The ERA uses the very same outdated and incomplete AMMOP bycatch data from 1990-2013, is largely qualitative and based on expert opinion. The U.S. Fish and Wildlife Service (USFWS) considered the data used in this ERA as “*sporadic*”, “*inadequate*” or “*10-30+ years old*”, and fishery representatives also expressed concerns that the data used is based on coarse and outdated fishing effort information (Seabird Workshop, 2022). The authors of the ERA themselves recognise that “*The lack of data available not only about gillnet-murrelet interactions and bycatch, but also for murrelet population distribution in Alaska was a significant challenge in conducting this analysis [...]. Frustration with lack of data was a common theme brought up by fishermen, biologists, and conservationists [...]*” (Wilson et al., 2022, p. 17). We note that the ERA “*recommend continued efforts to collect information on seabird-gillnet interactions, as*

well as more efforts to understand murrelet population distribution and density throughout their Alaska range". This has not been reflected in the CAB's conclusion which states "that bycatch is insignificant to the population of Marbled Murrelet" nor its scoring for 2.3.1.b or raising of a new Condition.

- **Limited data sources for seabird-fishery overlap:** The ERA scores each of the 13 regions assessed on the presence of absence of risk to murrelets, based on the spatial-temporal overlap with this fishery (Wilson et al., 2022, p. 9 – Table 2). The sources used for these scorings – which result in eight of the 13 regions not being carried forward to be further risk-assessed – do not provide clear or recent evidence for the absence of risk to murrelets in this fishery in most UoA's. Notably:
 - Kuletz et al., 2019 is cited as evidence for the absence of risk, based on low spatial-temporal overlap, in six of the regions assessed. This source is a PowerPoint presentation from the AFDF Seabird Workshop in 2019, not accessible publicly and no information is provided in the reporting regarding the original source of this "data". This therefore cannot be considered credible nor valid evidence for this conclusion.
 - The rationale for the absence of risk in Bristol Bay and the sources cited to support this are: "*On the edge of MAMU [Marbled Murrelet] range during fishing season; agreement between biologists that the turbid water, super high density of boat activity, and large tidal swings do not support murrelet foraging and therefore murrelet bycatch is of exceedingly low concern (Stern-Pirlot et al., 2020, Carter et al., 1995)*".
 - Carter et al., 1995 is too outdated to be considered valid or reliable evidence for this rationale, providing information on Marbled Murrelet mortality in North American gillnets from over 30 years ago.
 - Stern-Pirlot et al., 2020 is the 2020 MSC Surveillance Report for this fishery, and is essentially the CAB citing itself. Within this source, there is no clear information provided regarding the original source of this information. This therefore cannot be considered credible evidence for this conclusion.
 - The use of "*agreement between biologists*" to conclude absence of risk, with no additional detail nor valid sources to support this, can by no means be considered credible evidence for this conclusion.

Considering these critical limitations, we do not think that the result of this ERA can be considered sufficient evidence to justify this scoring.

CAB denies potential risk of bycatch on Marbled Murrelet population despite evidence.

This available data presented by the CAB, nonetheless, suggests that seabird bycatch in this fishery does occur at a level that has a significant impact on threatened seabird populations in Alaska – particularly the Marbled Murrelet – contradicting the CAB's claim that "*the level of annual mortality likely experienced in the gillnet fisheries is relatively insignificant to the total population*" (Stern-Pirlot et al., 2024, p. 211).

- According to the collated bycatch data from the AMMOP programme reports, and confirmed by the ERA carried out by the fishery client (Wilson et al., 2022), the estimated annual bycatch of Marbled Murrelets in this fishery is **2,303 individuals**. This is already a significant figure for a globally Endangered species (BirdLife International, 2020), which has ~70% of its population in Alaska and significant distribution overlap with this fishery. This species has undergone a 71% population decline since the early 1990's (Piatt et al., 2007), and is listed as Threatened under the US Endangered Species Act in the Pacific Region (*Region 1*). This species is also listed under the US "*§10.13 List of Birds Protected by the Migratory Bird Treaty Act*", which "prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service".
- While not listed in Alaska, we note that the recent paper Bertram et al. 2023, states that the occurrence of Marbled Murrelets in Alaska "*has implications for British Columbia populations with respect to anthropogenic threats in the marine habitat, including the potential for incidental take in gillnet fisheries and risks from oiling*". In Canada, the Marbled Murrelet has been listed as Threatened under the federal Species at Risk Act since 2003, based on Committee on the Status of Endangered Wildlife in Canada (COSEWIC) assessments in 1990, 2000 and 2012. This species is also categorized as blue (special concern) in British Columbia. **The fishery is therefore highly likely to impact Marbled Murrelets from Canada and the USA Pacific coast, which are protected under regional and federal law.**
- When considering population dynamics, current estimates indicate that bycatch in this fishery indeed has an impact on the Marbled Murrelet population in Alaska. The Alaskan population of Marbled Murrelets is estimated at 271,000 individuals (Piatt et al., 2007), with an annual survival probability of 0.83-0.93 (Desimone, 2016). The overall annual mortality of the Alaskan Marbled Murrelet population is therefore estimated on average at 32,400 (with a 95% confidence interval of 17,964-48,174 individual birds across all age classes). Assuming yearly bycatch of 2,303 Marbled Murrelets is correct, bycatch from this fishery alone could therefore represent **7.8% of the annual mortality of this population** (up to 13.1%). Schippers et al. (2020) explain that – for a number of bird species – a 1% and 5% additional mortality can result in a 2%–24%

and 9%–77%, respectively, decrease in the population level after 10 years. **This proves that the current level of bycatch from this fishery on Marbled Murrelets is not as insignificant as claimed by the CAB.**

- Reducing the at-sea mortality by 2,303 individuals in an [online PVA tool](#) for this species, we find that the projected population in 100 years' time would be up to **3.40% lower** with the fishery mortality than without the fishery mortality. It demonstrably shows that the bycatch levels reported by the CAB do indeed reduce the chance for the Marbled Murrelet global population to recover.

Therefore, **the available bycatch data suggest that the fishery is most likely having a detrimental impact on the Marbled Murrelet population**, in Alaska and at global scale. Considering the **substantive limitations with the quality and sufficiency of AMMOP data**, this bycatch estimate and its impact on the population of Marbled Murrelet could even be underestimated.

The CAB therefore fails to prove that the fishery does not hinder recovery of ETP seabird species. Despite raising these concerns and providing this information on numerous occasions through our past input with this fishery, they have **not been acknowledged seriously by the CAB and scorings have not been reflected.**

The scoring of 80 is too high to be justified with the available information and should score below 80.

1	Performance Indicator
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PI 2.3.2 SI b, c, d & e – ETP species management strategy: Management strategy implementation & Review of alternative measures to minimise mortality of ETP species

2	Reason
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The scoring of 80 for PI 2.3.2 SI b, c, d & e, in regard to managing impacts on threatened seabird populations – particularly murrelet species – is too high as the decision cannot be justified based on the evidence available.

Condition 10 was established in 2020 under PI 2.3.2.d, requiring *that “the client must demonstrate that there is a process in place to ensure a regular review of the potential effectiveness and practicality of alternative measures to minimise UoA and enhancement related mortality of ETP seabirds (particularly murrelet species), and they are implemented as appropriate.*

The CAB has **unilaterally closed Condition 10**, following the ACDR. The CAB used the very same outdated and likely unreliable data, as well as prospective future actions, to dismiss the need to (have) implement(ed) *“alternative measures to minimise UoA and enhancement related mortality of ETP seabirds”*, to close Condition 10, and justify the scoring of 80 for PI 2.3.2 d & e.

We strongly disagree that these data and actions are sufficient to justify these decisions.

3	Supporting rationale and or evidence
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PI 2.3.2 SI b, c & d

The CAB presents the following arguments as evidence that *“precautionary management strategies designed to ensure the UoA does not hinder recovery of ETP species is in place”*:

- **PI 2.3.2.b:** To justify scoring of 80, the CAB considers that there is a strategy in place that *“is consistent with the observed low level of ETP by-catch relative to overall population size and is expected to ensure that the UoAs do not hinder recovery of ETP species as documented by NMFS (2018) in their most recent consultation on the delegation of management authority for specified salmon fisheries to the State of Alaska”*.
- **PI 2.3.2.c:** To justify scoring of 80, the CAB considers the available data regarding encounters and mortality from the AMMOP to provide *“an objective basis for confidence that encounters and mortality with other ETP species is low”*.
- **PI 2.3.2.d:** To justify scoring of 80, the CAB considers that there is quantitative information on the bycatch of ETP species available from the fishery and this information supports that conclusion that the measures/strategy are being implemented successful in all UoA's.

As described previously ([see objection to PI 2.3.1](#)), such conclusions cannot be made with the information available. The CAB assumes that there is sufficient “quantitative information on ETP species bycatch” (PI 2.3.2.d), to conclude with confidence that this fishery has “low level of ETP bycatch” (PI 2.3.2.b) or “encounters” (PI 2.3.2.c), to justify on the absence of a real strategy in place (PI 2.3.2.d). This rationale is, however, deeply flawed given the insufficient and likely unreliable data provided ([see objection to PI 2.3.1 – limits of the AMMOP and ERA data](#)), and **clearly contradicts the “precautionary” approach of management strategies**, which this PI is based upon. **In the absence of reliable and contemporary data, the CAB does not provide an “objective basis” for confidence**

that any measures/strategy are in place or that a strategy would work, to ensure the UoA does not hinder recovery of ETP species. **These SIs should score below 80.**

PI 2.3.2 SI e and Condition 10

To justify scoring of 80 for PI 2.3.2.e, the CAB considers that in “regards to non-ESA listed Kittlitz’s murrelet and Marbled murrelet, a condition was established in 2020 under PI 2.3.2 SI d to require that there is a regular review of the potential effectiveness and practicality of alternative measures to minimise UoA and enhancement related mortality of ETP species and they are implemented as appropriate. This condition was addressed by two seabird workshops conducted by AFDF and a new initiative by the U.S. Fish and Wildlife Service regarding fishery interactions with seabirds”.

We disagree that Condition 10 has been addressed in the first place, thus consider this scoring is not supported by reliable evidence (see below). While the two seabird workshops indeed took place in 2019 and 2022, since the previous certification and Condition being raised in 2020 no new data have been collected in this fishery that are related to bycatch monitoring or testing of bycatch mitigation measures for ETP species. The CAB used the very same outdated and likely unreliable data, as well as prospective future actions, to close Condition 10 and justify the PI 2.3.2.e scoring of 80.

Among the CAB’s justification to the closure of Condition 10, the following actions are described (Stern-Pirlot et al., 2024, pp. 451-454):

- **NOAA seeking funding to conduct additional AMMOP sampling** from 2025, based on annual fishery risk assessments under the Marine Mammal Protection Act, to collect data on harbour porpoise as well as seabird interactions with gillnet fisheries in Southeast Alaska.

The reporting suggests this initiative is still in the planning phase (Stern-Pirlot et al., 2024, pp. 174-175), and no evidence has been provided regarding the status of this initiative since the PCDR in 2023. Even if implemented as planned (2025), it confirms that **no new or independent bycatch data have been collected for over a decade (2013-2024) nor will be available until at best 2025 or 2029** (“3-4 years of field sampling”; pp.175). In this context, we seriously question how the CAB can reasonably consider the available information as sufficient to inform “precautionary management strategies” for PI 2.3.2.

- **New analysis of previous AMMOP data**, through a collaborative initiative between the USFWS and National Marine Fisheries, on seabird interactions with the fishery, to provide guidance on future surveys and improve management measures.

While we welcome this action, it will not contribute to the collection of contemporary bycatch data and evidence. This research is valuable to better understand seabird-fishery interactions to provide guidance for future surveys, but as a reanalysis of existing AMMOP data its findings will be limited, and yet again based on the same outdated and incomplete observer data. Therefore, **this action, its outcomes or its implementation, is outside the timeframe of the previous certification phase and cannot justify closure of Condition 10.**

- **‘SkipperScience’ citizen science project**, funded by MSC Ocean Stewardship, developing an app for gillnet fishers to record observations on seabird distribution and interactions with the fishery.

Efforts to improve bycatch self-reporting and knowledge of bird distribution using the ‘SkipperScience’ app is a positive step towards informing management measures. However, self-reporting is not equivalent to independent data collection, meaning this alone is not a sufficient data source. Basran and Sigurðsson (2021) showed that in US gillnet fisheries, onboard observers reported cetacean bycatch >14 times more than fishers. Also, **this initiative is still in the trialling phase, and no results from this initiative are yet reported.** Therefore, once again, this action cannot be considered as alternative measures to minimise seabird mortality being “implemented as appropriate”, and nor sufficient evidence to justify closure of Condition 10.

As such, there is no adequate evidence to support the closure of Condition 10 and these SIs should score below 80.

2 Reason

The scoring of 80 for PI 2.3.3 SI a & b in regard to the information adequacy for assessment of impacts to, and management strategy for, threatened seabird populations is too high as the decision cannot be justified based on the evidence available.

- The evidence used for the scoring of 80 for PI 2.3.3.a consists of the same seriously limited data used for PI 2.3.1 b and 2.3.2 b, c, d & e, thus cannot be considered adequate to quantitatively estimate take of threatened seabird species.
- The CAB uses a paradoxical argument for this scoring. Relying on sporadic, outdated and limited observer data to score 80 on PI 2.3.1.b, the CAB then uses this flawed scoring to justify – without any sufficient evidence – that the sampling effort used in observer programmes to 1) quantitatively estimate bycatch of (2.3.3.a), and 2) manage impacts to (2.3.3.b), threatened seabird species is consistent with the observed low impact on these species.
- The available evidence fails to support the CAB’s conclusion, and 80 scoring, that:
 - **2.3.3.a** - there is adequate evidence to quantitatively estimate seabird bycatch, and as such to determine whether or not this is a threat to protection and recovery of the ETP species (esp. Marbled Murrelet).
 - **2.3.3.b** – there is adequate evidence to measure trends and support a strategy to manage impacts on ETP species (esp. Marbled Murrelet).
- Despite expressing these issues on numerous occasions in past assessment stages, no new (reliable) evidence has been presented to justify this scoring since we first engaged in 2019.

3 Supporting rationale and or evidence

The CAB presents the following arguments as evidence to support that available information is “adequate to assess UoA related mortality and impact” (2.3.3.a) and “measure trends and support a strategy to manage impacts” (2.3.3.b) to threatened seabird species:

PI 2.3.3.a: “For seabirds and marine mammals, sufficient data are available from test fishing (e.g., Chaffee 2005), from observer programs (Wynne et al. 1990, 1991, 1992; Manly 2006, 2007, 2009; Wilson 2022) to quantitatively estimate take of these ETP species. Although the observer program has not operated in all areas of Alaska, the sampling effort is consistent with the observed relatively low level of impact of the fishery on ETP species. [...] Quantitative information on the relative catches in observer data and regional estimates of abundance of Kittlitz’s murrelet and Marbled murrelet was assessed in a 2022 workshop organized to address a condition of the previous certification (Wilson et. al 2022)” (Stern-Pirlot et al., 2024, p. 220).

PI 2.3.3.b: “For ESA listed marine mammals and seabirds the use of on-board observer programs to estimate impacts thru time is subject to funding relative to the importance of whether or not gaining additional information is warranted considering the low levels of impact observed. [...] ADF&G routinely conducts test fisheries throughout the state and ADF&G staff and enforcement officers are routinely present on the fishing grounds to observe operations. [...] Information is considered adequate to monitor for any significant trend in encounters with marine mammals or seabirds given the observed low levels of contact” (Stern-Pirlot et al., 2024, p. 221).

As detailed above (see objections to PI 2.3.1 and 2.3.2), and expressed to the CAB on numerous occasions (Site visits, Stakeholders Input, Seabird Workshops), data used for this conclusion based on the same, seriously limited data as used in the scoring of 2.3.1 and 2.3.2. It is simply not reliable enough, and hardly qualifies as quantitative data due to its restricted coverage and sporadic nature:

- **AMMOP observer data:** As detailed above (see objection to PI 2.3.1 SI b):
 - Bycatch data that is 11 to 34 years old (**outdated**), with some areas not or partially monitored (**temporal and spatial limitations**), from a monitoring programme (AMMOP) not designed with seabird bycatch in mind (**not necessarily fit for purpose**; in gears and areas covered) and with observer coverage largely below scientific recommendations (**insufficient observer coverage**). This data cannot be considered as valid nor reliable basis to adequately assess bycatch-induced mortality and determine “whether the UoA and associated enhancement may be a threat to protection and recovery of the ETP species”.
 - Despite our past input, the same argumentation was used in this Final Draft Report as in the ACDR in 2022 (Stern-Pirlot et al., 2022, pp. 191-192), except now the CAB has added ‘Wilson, 2022’ to reference an “observer programme” that provides sufficient data “to quantitatively estimate take of these ETP species”. Wilson et al. 2022 is the ERA, which used the AMMOP data. We seriously question the good faith of the CAB by citing this report as reference in SG 60 scoring of **2.3.3.a**, inferring that new observer data could have been collected in recent years. As stated above, the most recent data from observers in this fishery are between 11-34 years old.

- **Ecological Risk Assessment:** As detailed above (see objection to PI 2.3.1 and 2.3.2):
 - Whilst the ERA (Wilson et al., 2022) did use *some* quantitative information on bycatch incidence from observer data, this is, again, from the AMMOP programme and thus has the same serious limitations.
 - Sources referenced in the ERA on “*regional estimates of abundance*” are either seriously outdated (Carter et al., 1995), non-credible and/or qualitative – based on expert opinion (Kuletz et al., 2019 [PowerPoint presentation – not accessible], Stern-Pirlot et al., 2020 [own CAB surveillance report with no clear original source], “*agreement between biologists*”).
 - As far as demonstrated by the CAB, Piatt et al. 2007 remains the most recent estimate for Alaska-wide population estimate of murrelets, and we do not have reliable estimates of bycatch rates specifically for Alaska. The ERA also refers to Kuletz et al. 2019 as rational to assess presence or absence of (bycatch) risk for Marbled Murrelets in different Alaska Regions (UoA’s); this only refers to a PowerPoint presentation during the 2019 workshop. We remind the CAB that Dr. Kuletz herself (from the U.S Fish and Wildlife Service) considered the data used in this ERA as largely “*sporadic*”, “*inadequate*” or “*10-30+ years old*”, during the 2022 Workshop.
 - In the first paragraph of the Conclusion of Wilson et al. 2022, the authors state: “*The lack of data available not only about gillnet-murrelet interactions and bycatch, but also for murrelet population distribution in Alaska was a significant challenge in conducting this analysis [...]. Frustration with lack of data was a common theme brought up by fishermen, biologists, and conservationists [...]*” (Wilson et al., 2022, p. 17). We note that the ERA “*recommend continued efforts to collect information on seabird-gillnet interactions, as well as more efforts to understand murrelet population distribution and density throughout their Alaska range*”. This has not been demonstrated by the fishery or CAB in this re-certification report.
- **Test fishing:**
 - These data were provided by the ADF&G staff to Scientific Certification Systems only through the form of a summary and no direct access of these data is possible for other stakeholders to evaluate data quality, including the seasonal representativity of these tests regarding the fishing activity and bird presence. No information has been given on test fisheries since the one carried out and reported by Chaffee et al. 2007, with no reports of observed effort, spatial or temporal coverage.
 - Some of the most important fishing areas (in terms of number of licences – though of course this may not reflect actual fishing effort), including Yakutat, Prince William Sound, Lower Cook Inlet or Kodiak were not covered by these test fisheries.
 - The purpose of these test fisheries was primarily to identify numbers of salmon that might be available for harvest early in the season, therefore were designed for a purpose that does not necessarily match with the need to accurately assess seabird bycatch in gillnets within the fishery (i.e., trying to understand bird bycatch better would necessitate a different experimental design, including targeting known areas of high seabird abundance). Although the sampling effort between data sources might appear consistent, the reliability of these data is however questionable given the total absence of bycatch events which contrasts with other sources (e.g., AMMOP).
- **Paradoxical argumentation for scoring:**
 - To support scoring of 60 for PI 2.3.3.a, the CAB suggests that “*Sampling effort in the observer program has been consistent with the observed relatively low level of impact of the fishery on ETP species*”,
 - To support scoring of 60 for 2.3.3.b, they argue that “*the use of on-board observer programs to estimate impacts thru time is subject to funding relative to the importance of whether or not gaining additional information is warranted considering the low levels of impact observed*”. For scoring of 80, they consider that “*Information is [...] adequate to monitor for any significant trend in encounters with marine mammals or seabirds given the observed low levels of contact.*”
 - This type of argumentation is deeply flawed. Relying on sporadic, limited, and outdated data to support the scoring of 80 on PI 2.3.1 (see objections to PI 2.3.1), which concludes on low impacts on ETP species, and then using this score to justify that sampling effort and the use of onboard observer programmes as a management strategy is consistent with observed impact, creates a **paradoxical argument**. The CAB confuses the absence of evidence of bycatch with evidence of the absence of bycatch in this fishery – using the latter (false) premise for this argumentation. If no reliable data has been collected for one to several decades, it is expected that no issue would emerge or at least be largely unreported.
 - We have already highlighted throughout this document the critical limitations of the available data, and on the absence of secured and scheduled monitoring programmes in this fishery to allow adequate “*management strategy*” being established to manage impacts on ETP species (see objections to PI 2.3.1 and 2.3.3). With no bycatch data collected over one to several decades (depending on the UoA), and being entirely dependent on (still unconfirmed) new AMMOP monitoring, we question how the CAB can say in confidence that it can monitor “*trend in encounters*” within this fishery.

As such, these SIs should score below 80.

1.7. Additional information

Table 10: Additional information

1	Information
	n/a
2	Reason why information was known or should reasonably have been known.
	n/a
3	Reason why information could have been material to the determination or the fairness of the assessment.
	n/a

2. Appendix 1 – Costs of the adjudication process (the Fee)

Objectors should note MSC Disputes Process v1.1 Section 5.11 in relation to the costs of the adjudication process.

Fee amount and payment details

The cost of the adjudication process is £5,000 or such lesser amount fixed by the independent adjudicator under MSC Disputes Process v1.1, 5.11.5.

The cost of the adjudication process shall be calculated and paid in Great British Pounds.

The MSC will email remittance details for the costs of the adjudication process within 5 days of the date on which the independent adjudicator notifies the parties that the adjudication phase will commence.

Please ensure the bank charges imposed by your own bank are not deducted from the Fee.

All sums, prices, costs, expenses and revenues referred to under the cost of the adjudication process are inclusive of VAT and any other taxes.

As per MSC Disputes Process v1.1, 5.11.3, an objection will not proceed to adjudication unless, within 15 days of the date on which the independent adjudicator notifies the parties that the adjudication phase will commence, the objector(s) has either:

- Paid the costs of the adjudication process to the MSC, or
- Obtained a waiver from the independent adjudicator in accordance with MSC Disputes Process v1.1, 5.11.4 and 5.11.5. The Notice of Objection Fee Waiver Template will need to be completed – see Appendix 2.

3. Appendix 2 - MSC Notice of Objection Fee Waiver Template

The MSC Notice of Objection Fee Waiver Template can be found [here](#).

4. Template information and copyright

The Marine Stewardship Council's 'MSC Notice of Objection Template v3.2.1' and its content is copyright of "Marine Stewardship Council" - © "Marine Stewardship Council" 2024. All rights reserved.

A controlled document list of MSC program documents is available on the MSC website (<https://www.msc.org/for-business/certification-bodies/fisheries-standard-program-documents>).

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