



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Office of Law Enforcement
West Coast Division
7600 Sand Point Way NE
Seattle, WA 98115
(206) 526-6133

May 13, 2018

Philip Anderson, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220-1384

Dear Mr. Anderson:

At the March 2018 Pacific Fishery Management Council Meeting, the Highly Migratory Species Advisory Subpanel (HMSAS) submitted a report under Agenda Item I.I.c. to the Council that expressed concern about the confidentiality of Vessel Monitory System (VMS) data and the potential misuse of VMS data for non-law enforcement purposes. The Council subsequently asked NOAA Fisheries Office of Law Enforcement (OLE) to:

1. Review the report identified in HMSAS Report 1 on the National Marine Fisheries Service (NMFS) report, and determine if there were any confidentiality violations from the use of Vessel Monitoring System (VMS) data.
2. Verify VMS data may be used for non-law enforcement purposes.

The NOAA Office of the General Counsel and OLE has reviewed the research article titled *Fishermen Follow Fine-Scale Physical Ocean Features for Finance* (<https://www.frontiersin.org/articles/10.3389/fmars.2018.00046/full>) and determined there were no unauthorized disclosures of confidential VMS data contained within the article nor the associated attachments. OLE verified that a co-author, who was provided the confidential VMS data, worked at the Northwest Fisheries Science Center and had signed the required non-disclosure agreement. The article was submitted to the OLE VMS Program Manager for pre-publication review, and the Program Manager approved the article for publishing after ensuring it did not disclose protected or confidential business information.¹

VMS is considered Magnuson-Stevens Act (MSA) confidential information, as such, its utilization is prescribed by 16 U.S.C. §1881a(b)(1). Specifically, §1881a(b)(1)(A)-(H) detail authorized disclosures, and uses of MSA confidential information. Pursuant to the authority provided in this section, VMS, and other confidential information, is utilized for a multitude of purposes within NOAA. These authorized uses include, but are not limited to, fisheries management, monitoring, and enforcement.

¹ Any data released must meet the requirements in NOAA Administrative Order NAO216-100: *Protection of Confidential Fisheries Statistics*, along with the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §1881a(b)(3).



In conclusion, the research article at issue did not result in the inappropriate release of MSA confidential data; and there are numerous authorized uses of VMS data including, but not limited to, fisheries management, monitoring, and enforcement.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory Busch". The signature is fluid and cursive, with the first name "Gregory" being more prominent than the last name "Busch".

Gregory Busch, Assistant Director
NOAA Fisheries, Office of Law Enforcement