

Informational Report 1
NMFS NW Enforcement Division Quarterly Report
November 2005



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Office for Law Enforcement
7600 Sand Point Way NE, F/EN5
Seattle, WA 98115-0070

September 20, 2005

Mr. Donald K. Hansen
Pacific Fishery Management Council
7700 NE Ambassador Place, Ste 200
Portland, OR 97220

RECEIVED

SEP 26 2005

PFMC

Dear Mr. Hansen:

Enclosed is the National Marine Fisheries Service, Northwest Enforcement Division report which highlights enforcement activity during the third quarter of FY05. This report includes a brief description of NOAA Fisheries Enforcement actions. The investigative summaries were modified for Council distribution and all ongoing cases were removed to protect the privacy of subjects involved in cases not yet adjudicated.

Please feel free to disseminate this information as you see fit and do not hesitate to contact me if you have any questions about our activities.

Sincerely,

A handwritten signature in cursive script, appearing to read "Scot Yamashita".

Scot Yamashita
Special Agent in Charge (Acting)

Enclosure



National Marine Fisheries Service
Office of Law Enforcement

NORTHWEST ENFORCEMENT DIVISION

QUARTERLY REPORT

MODIFIED FOR COUNCIL DISTRIBUTION



Third Quarter FY2005
April 1, 2005 – June 30, 2005

To report fisheries violations,
please call our National Hotline at 1-800-853-1964.

NORTHWEST ENFORCEMENT DIVISION

Quarterly Report
April 1, 2005 – June 30, 2005

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Significant Actions

A. Complex Cases

CRIMINAL

Lacey Act

Case Number Withheld

(United States of America v. 144,774 Pounds of Blue King Crab)

This case involves the illegal harvest of Russian blue king crab and transshipment in Russian waters. The unlawful product subsequently entered the United States at the Port of Seattle on a separate merchant vessel. NW OLE received information that the vessel was attempting to deliver the crab product to the United States through Canada. NW OLE, along with agents from Canadian Department of Fisheries and Oceans (CDFO), boarded the vessel in Vancouver, Canada to confirm the vessel's product. After numerous conversations with Russian authorities NW OLE determined that the crab product had been illegally harvested and transshipped in Russian waters, contrary to Russian law. With the assistance of United States Customs Service (USCS), the product was seized when it entered the United States at Blaine, Washington. The product, valued at approximately \$1.5 million, was transferred to the custody of NW OLE, and the funds are being held by the District Court.

On July 10, 2003, the district court ruled that the importer's lack of knowledge of the circumstances under which the crab was harvested was not a defense. On June 9, 2005, the appeals court issued a decision agreeing that such lack of knowledge was not a defense.

On June 9, 2005, the Ninth Circuit Court of Appeals upheld the government's argument that the crab was illegal. In affirming the district court, the appeals court ruled that illegally harvested crab is property that it is "illegal to possess" without regard to what the importer knew. The case will now return to district court to allow the government to prove that the crab was harvested in violation of Russian law.

This is the first ruling by a U.S. appeals court on whether illegally imported crab is illegal to possess without regard to the importer's knowledge of how the crab was harvested. The ruling will significantly aid NOAA in its efforts to stem the importation of illegally harvested fish into the United States.

B. COPPS

NW OLE hosted a Collaborative Decision Making training session for the Columbia River Indian Tribes this July using the long-standing contentious issue of in-lieu sites as the focal point for the

training. NW OLE contracted with the Washington State University Natural Resources Leadership Academy (NRLA) to deliver the training. NRLA, a rather new initiative at WSU, has been active in the area of addressing contentious natural resource issues for the past three years. NW OLE, along with WDFW Enforcement has been an active supporter of NRLA each hosting various training sessions over the past two years. Contentious natural resource issues often times do not lend themselves to a traditional enforcement approach but are nonetheless real threats to the resource. NRLA serves as a forum through which participants acquire knowledge, skill, and tools to develop citizen-to –government relationships fostering respect, trust, and inclusively that support effective natural resource stewardship.

Operation "North Coast Halibut" was conducted during the week of June 27th through June 30, 2005. The operation was designed to provide enhanced enforcement and up-scaled enforcement presence during the first halibut derby along the Oregon and Washington Coast. NOAA Agents from the Northwest Division (9), as well as agents from the Southeast (2), Southwest (3), Northeast (1) and PID (1) participated. Our state partners from Washington Department of Fish and Wildlife and Oregon State Police (OSP) were heavily engaged in the operation.

The US Coast Guard provided a C-130 and Helos for air patrols. A 110 foot cutter and boarding teams from various stations throughout Washington and Oregon were involved as well. The operation was highly successful, with a number of documented violations involving seizures of up to 5,000 pounds. A large number of contacts were made in which a variety of enforcement actions were documented. Industry officials offered positive feedback and the message conveyed was that NOAA OLE was there to enforce laws and regulations fairly and appropriately.

The 2005 "Be Whale Wise" campaign is entering its last week with radio spots running on KUOW and KMPS and signage on the back of Seattle Metro buses. Although the results from the radio spots will not be out for a few months, the TV ads reached a cumulative total of 2.7 million households in the 4 weeks of advertising; this was an average of 676,177 house holds per week. During the same time, NOAA OLE also ran billboard ads as well as ads on KIROT.com. The web ads drew in a total of 361,927 impressions and nearly 450 viewers clicking on these ads for more information about NOAA and Marine Mammal Safety.

PARTNERSHIPS

NW OLE agents continue to assist the United States Coast Guard (USCG) training teams by giving presentations at various groups and stations, fostering better relationships and knowledge of the two agencies.

C. Community Relations

Endangered Species Act

Oregon

Current community concerns

Poaching of salmon and steelhead on spawning grounds on the North Umpqua River and its tributaries.

Potential problems that affect law enforcement activities
Remoteness of sites and sporadic illegal activity.

Recommended action

NW OLE will continue its partnerships with the North Umpqua Foundation, OSP, and the Umpqua National Forest for proactive enforcement. NW OLE will provide investigative personnel and technical equipment to document violations.

Endangered Species Act

Washington / Oregon

Current community concerns

The unusually dry winter resulted in a lack of snow pack which led the Governor of Washington to declare a drought in early March 2005. Spring rains have recharged underground water aquifers, but water and irrigation systems which rely on snow pack spring runoff are still extremely low.

Potential problems that affect law enforcement activities

This lack of spring runoff will cause severe restrictions on irrigation in Eastern Washington and even with these restrictions many listed fish will be left stranded as streams dry up this winter. Determining natural “take” versus cause and effect “take” will be even more problematic for the investigating agent in these stranding situations.

Recommended action

NW OLE staff are working closely with NMFS biologists and local state agencies to stay abreast of evolving situations and will employ a combination of outreach COPPS activities, and where necessary, investigations of “take” to provide needed protection for listed Northwest salmon.

Magnuson-Stevens Act

Washington / Oregon

Current community concerns

The Pacific Fisheries Management Council (PFMC) selected a suite of preferred alternatives in its deliberations to identify Essential Fish Habitat (EFH) per the Magnuson Stevens Act. As a result the Council and NMFS staff is working to codify into rule, closing specific areas that are inside 700 fathom and all water outside 700 fathom, to trawling within the EEZ. Essentially over 75% of the EEZ on the west coast will be closed to trawl fishing.

Potential problems that affect law enforcement activities

Enforcing the closure of such a large expanse of ocean is a considerable enforcement problem which will take extraordinary measures on the part of state enforcement and NW OLE agents and staff.

Recommended action

NW OLE will work closely with Sustainable Fisheries staff in developing the regulatory language for these closures, and will begin planning for expansion of the VMS program to enhance the enforcement effort necessary to maintain the integrity of the closed areas.

Progress Updates

VMS

The PFMC evaluated the EA alternatives for VMS expansion to the Open Access fleet and asked staff to determine appropriate thresholds for direct and indirect groundfish harvest activity levels. The Council will again consider expanding VMS at its November Council meeting with anticipated implementation in the spring of 2006.

The PFMC, as part of its deliberations for identifying final EIS alternatives for EFH designation, chose requiring VMS on all trawl vessels participating in West Coast Fisheries. This expansion will be codified in rule with an anticipated implementation date of May 2006. This action could effect upwards of 100 additional vessels not already required to carry VMS on the West Coast.

Puget Sound Tide Gates

NW OLE staff met with agriculture interest and staff from WDFW to expand on the collaborative agreements already reached between agriculture, WDFW and the North Puget Sound Tribes. Additional meetings with all the parties, including the Corps of Engineers, are scheduled throughout the summer.

MMPA

The “Be Whale Wise” advertising campaign is still in operation with displays on buses and billboards throughout Seattle and Northern Puget Sound. Additionally, the NWR Protected Resources Division has teamed up with Comcast Cable, Inc. for a three minute commercial regarding the Be Whale Wise campaign. The commercial is tentatively scheduled to be aired sometime in the fall.

D. VMS

In the third quarter of 2005, the Vessel Monitoring System (VMS) program continued operations. The last count of VMS data showed that:

- 331 Vessels have been monitored since program inception in January 2004.
- More than 4 million position reports have been logged into the VMS database.
- 1507 groundfish declarations have been made for vessels fishing in the Rockfish Conservation Areas (RCA’s) since January 1, 2004.

Conclusion:

The Pacific Coast Groundfish VMS continues to be online and operating as intended. The declaration system is working well, and is now integrated with the VMS database.

NUMBER OF CASES OPENED BY INVESTIGATION TYPE
FY04 and FY05

Investigation Type	FY04 3rd Quarter	FY04 Total	FY05 3rd Quarter	FY05 Total
ESA	4	51	8	19
Lacey Act	2	3	3	7
Magnuson Act	16	95	13	46
MMPA	26	80	9	31
Marine Sanctuaries	1	2	2	2
Intl. Pac. Halibut Conv.	1	7	0	1
Other Fisheries Invest.	0	1	2	2
Non-Fisheries Federal Reg.	4	8	1	7
State Regulations	2	8	3	5
Tribal Regulations	0	0	0	2
Tuna Conventions Act	0	0	6	7
TOTAL	57	256	47	129