

NOAA Office of General Counsel
for Enforcement & Litigation (GCEL/SW)
Southwest Regional Office
501 W. Ocean Blvd. Suite 4470
Long Beach, CA 90802
Telephone: (562) 980-4069
FAX: (562) 980-4084

NOAA Office of General Counsel
for Enforcement & Litigation (GCEL/NW)
Northwest Regional Office
7600 Sand Point Way, N.E.
Seattle, WA 98115
Telephone: (206) 526-6238
FAX: (206) 526-6238

MEMORANDUM FOR: Pacific Fishery Management Council

FROM: Paul A. Ortiz, Senior Enforcement Attorney, GCEL/SW
Niel Moeller, Senior Enforcement Attorney, GCEL/NW

DATE: September ____, 2009

SUBJECT: Fisheries Prosecution Activity under PFMC's FMPs;
January 1, 2009 - August 31, 2009

SOUTHWEST REGION

A) Cases referred to GCEL/SW:

17 cases were referred to GCEL/SW for prosecution during this period.

B) Enforcement Actions:

- 1) SW060129, F/V MISS ANNIE – Owner/Operator charged under the Magnuson Act with two counts of failing to operate a VMS unit, one count of failure to file a haulout exemption cancellation, three counts of failure to file a declaration report, and five counts of operating in a non-trawl RCA. The NOVA assessed a civil penalty of \$35,000.

- 2) SW070399, F/V JOE ANA – Owner and operator charged under Magnuson Act with four counts of operating in a Cowcod Conservation Area. The NOVA assessed a civil penalty of \$24,041.
- 3) SW060016, F/V MISS PHUONG II – Owner/Operator charged under Magnuson Act with eight counts of landing trip limit overages of sablefish, eight counts of falsifying state landing receipts, one count of failure to file a declaration code, and one count of operating in a non-trawl RCA. The NOVA assessed a civil penalty of \$47,902.
- 4) SW0801560, Pelly's Fish Market and Café – Fish dealer charged under the Magnuson Act with one count of failure to file state landing receipts for groundfish, one count of failure to sort groundfish prior to first weighing, and one count of failure to file landing reports for HMS. The NOVA assessed a civil penalty of \$9,000.
- 5) SW0804045, F/V LORA LEE – Owner/Operator charged under Magnuson Act with one count of operating in a non-trawl RCA, and two counts of failure to file declaration reports. The NOVA assessed a civil penalty of \$8,552.
- 6) SW0704722, UN-NAMED DORY VESSEL – Owner/Operator charged under Magnuson Act with two counts of fishing with a non-functioning VMS unit, one count of failure to sort groundfish, and one count of a false statement to a law enforcement officer. The NOVA assessed a civil penalty of \$17,500.
- 7) SW0703036, F/V LYNDIE J - Owner and operator charged under Magnuson Act with operating in a trawl RCA. The NOVA assessed a civil penalty of \$5,493.
- 8) SW0901931, F/V NEW SUNBEAM – Owner/Operator charged under Magnuson Act with two counts of taking and retaining Pacific Sardine during the closure of the directed fishery. The NOVA assessed a civil penalty of \$6,529.
- 9) SW0901936, Tomich Brothers Seafood – Fish dealer charged under Magnuson Act with two counts of purchase and possession of Pacific sardine taken illegally during the closure of the directed fishery. The NOVA assessed a civil penalty of \$11,529.

- 10) SW0703625, F/V WESTERN WARRIOR – Owner/Operator charged under Magnuson Act with three counts of fishing with bottom contact gear in an EFH, and one count of operating in a RCA. The NOVA assessed a civil penalty of \$31,049.
- 11) SW0703629, F/V PALO – Owner/Operator charged under Magnuson Act with four counts of operating in a non-trawl RCA. The NOVA assessed a civil penalty of \$35,786.
- 12) SW0800616, F/V HAZEL A – Owner/Operator charged under Magnuson Act with two counts of operating in a non-trawl RCA. The NOVA assessed a civil penalty of \$13,754.
- 13) SW0801258, F/V PRIMO – Owner/Operator charged under Magnuson Act with two counts of fishing without a functioning VMS unit. The NOVA assessed a civil penalty of \$10,000.
- 14) SW0802342, F/V ANGELA C – Owner/Operator charged under Magnuson Act with one count of landing an overage of minor shelf rockfish. The NOVA assessed a civil penalty of \$1,919.
- 15) SW070009, F/V SLEEP ROBBER – Owner and operator charged under Magnuson Act with two counts of fishing ahead during a closed period. The NOVA assessed a civil penalty of \$15,000.

C) Total Penalties Assessed: \$273,054

D) Cases Settled:

- 1) SW060007A, Ken's Seafood, Inc. – Fish dealer charged \$3,500 under the Magnuson Act with seven counts of purchasing lingcod overages. Case settled for \$3,500.
- 2) SW0701930, F/V DELLA C – Owner and operator charged \$17,697 under the Magnuson Act for a sablefish overage, falsified landing receipts, and a false statement to a law enforcement officer. Case settled for \$10,000, with an additional \$7697 suspended five years pending no further violations.
- 3) SW0603103, F/V VICTORY – Owner/Operator charged \$500 under Magnuson Act for failure to operate VMS while dockside. Case settled for \$500.
- 4) SW0603063, F/V SKIPJACK – Owner and operator charged \$12,286 under the Magnuson Act for failure to operate VMS. Case settled for \$7000.

- 5) SW0801560, Pelly's Fish Market and Café – Fish dealer charged \$9,000 under the Magnuson Act with one count of failure to file state landing receipts for groundfish, one count of failure to sort groundfish prior to first weighing, and one count of failure to file landing reports for HMS. Case settled for \$4,500.
- 6) SW0602936, F/V POINT LOMA – Owner and operator charged \$29,932 for three counts of fishing in a trawl RCA. Case settled for \$10,000, with an additional \$19,932 suspended 3 years pending no further violations, and agreement to distribute community service compliance guides.
- 7) SW0701695, F/V MISS ANGRA – Owner/Operator charged \$5,000 for one count of failure to operate VMS unit. Case settled, in conjunction with SW060226, for \$2500, with an additional \$3500 suspended one year pending no further violations.
- 8) SW060226, F/V MY LADY – Owner/operator charged \$3,000 for two counts of failure to complete HMS logbooks, and one count of fishing for HMS without a permit. Case settled, in conjunction with SW0701695, for \$2500, with an additional \$3500 suspended one year pending no further violations.
- 9) SW060129, F/V MISS ANNIE – Owner/Operator charged \$35,000 for two counts failing to operate VMS, one count failre to to file haulout exemption, three counts of failing to file declaration report and five counts of operating in a non-trawl RCA. Case settled for \$7,000 penalty, with an additional \$27,000 suspended for five years pending no further violations, and if future violations include VMS or RCA regulations Respondent agrees to one year suspension of CA fishing license.
- 10) SW0704285, F/V HOLY BULL – Owner/operator charged \$6,593 for one count of operating in a RCA. Case settled for \$4,000.
- 11) SW0800876, F/V RISA LYNN – Owner/operators charged \$20,000 for four counts of fishing in an EFH. Case settled for \$10,000.
- 12) SW0804847, F/V VERNA JEAN – Owner/operator charged \$11,545 for two counts of landing groundfish overages. Case settled for \$11,545.

- 13) SW070009, F/V SLEEP ROBBER – Owner and operator charged \$15,000 for under Magnuson Act with two counts of fishing ahead during a closed period. Case settled for \$8,500, with an additional \$6,500 suspended pending one year of no further violations.

E) Total Settlement Amounts: \$79,045

F) Total Permit Sanctions Assessed: None

G) Hearings held or scheduled:

- 1) SW0702652, F/V AZTECA 1 – Owner of Mexico-flagged purse seiner charged \$130,000 under the Magnuson Act for fishing in the exclusive economic zone of the United States without authorization. Administrative hearing held July 7, 2009. Awaiting decision of Administrative Law Judge.
- 2) SW0702881, F/V MARIA LUISA – Owner of Mexico-flagged purse seiner charged \$130,000 under the Magnuson Act for fishing in the exclusive economic zone of the United States without authorization. Awaiting scheduling of administrative hearing.

NORTHWEST REGION

A) Cases referred to GCEL/NW:

12 cases were referred to GCEL/NW for prosecution during this period.

B) Enforcement Actions:

- 1) NW0703899, F/V HOME BREW – Owner and operator charged under the Magnuson Act with two counts of fishing in the trawl RCA. The NOVA assessed a civil penalty of \$47,594.
- 2) NW0800934, F/V GEORGE ALLEN – owner and operator charged under the Magnuson Act with one count of failure to log discarded groundfish. The NOVA assessed a civil penalty of \$2,000.
- 3) NW0800807, F/V NICOLE – owner and operator charged under the Magnuson Act with one count of fishing in the trawl RCA, and one count of fishing in the Biogenic 1 EFH Conservation Area. The NOVA assessed a civil penalty of \$40,207.

- 4) NW0602322, F/V FATE HUNTER – owner and operator charged under the Magnuson Act with one count of landing an overage of rockfish, two counts of operating in the trawl RCA, and one count of fishing in the Biogenic 1 EFH Conservation Area. The NOVA assessed a civil penalty of \$33,700.
- 5) NW0800278, F/V OCEAN HUNTER – owner and operator charged under the Magnuson Act with three counts of operating in the trawl RCA. The NOVA assessed a civil penalty of \$25,000.
- 6) NW0704518, F/V TRINKET – owner and operator charged under the Magnuson Act with one count of landing an overage of lingcod. The NOVA assessed a civil penalty of \$2,438.

C) Total Penalties Assessed: \$150,939

D) Cases Settled/Closed (some cases may also appear above):

- 1) NW0800233, F/V CASSANDRA ANNE – owner and operator charged \$15,000 under the Magnuson Act for bottom trawl fishing in a EFH area. Penalty paid in full.
- 2) NW0800934, F/V GEORGE ALLEN – owner and operator charged \$2,000 under the Magnuson Act with failure to log discarded groundfish . Penalty paid in full.

E) Total Settlement Amounts: \$17,000

F) Total Permit Sanctions Assessed: None

G) Hearings held or scheduled: None