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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

November 6, 2003

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

Dear Mr. Hansen:

Enclosed is the National Marine Fisheries Service, Northwest Enforcement Division report which highlights enforcement activity during the fourth quarter of FY03. This report includes a brief description of NOAA Fisheries Enforcement actions. The investigative summaries were modified for Council distribution to protect the privacy of subjects involved in on-going cases, with identifying information removed from 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,

Vicki L. Nomura
Special Agent in Charge

Enclosure

National Marine Fisheries Service
Office of Enforcement

NORTHWEST REGION ENFORCEMENT DIVISION

QUARTERLY REPORT

MODIFIED FOR COUNCIL DISTRIBUTION



Fourth Quarter FY2003
July 1, 2003 - September 30, 2003

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

NORTHWEST REGION ENFORCEMENT DIVISION

Quarterly Report
July 1, 2003 - September 30, 2003

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INVESTIGATIONS2
NUMBER OF CASES OPENED BY INVESTIGATION TYPE17

Investigations

CIVIL

ESA Investigations

Case Number Withheld

On September 18, 2002, the Washington Department of Fish and Wildlife (WDFW) referred a case to NOAA OLE alleging "take" of Hood Canal summer run salmon by local tribal members. Three tribal members killed between 730 and 781 listed chum salmon. The critical escapement needed for threatened Hood Canal summer-run chum salmon in Quilcene Bay is 1110 fish. The critical run size threshold is 1260. In addition to the ESA violation, four tribal fisheries violations occurred which were addressed by the tribe.

Case Number Withheld

This case was initiated by the WDFW and referred to NW OLE. On September 23, 2003, NOAA General Counsel (GC) assessed a \$2,000 dollar penalty for two individuals that unlawfully killed 131 threatened chum salmon in Quilcene Bay in the Hood Canal.

NW030026

A northern Oregon city received a grant from the US Economic Development Agency (USEDA) to improve access and recreational opportunities along the Columbia River. A biological opinion (BO) was issued in September of 2002 for the project. More riparian vegetation was removed than was authorized by the BO. Officials from the Army Corps of Engineers (COE), Oregon Department of State Lands (ODSL), the city and the contracted engineering and construction companies met on January 9, 2003. The city, through the USED A, reinitiated a Section 7 consultation. The reinitiated consultation included a mitigation plan for the habitat destruction. The BO was completed by NOAA Fisheries and the mitigation work was started in August 2003. This case was closed due to lack of evidence that an ESA violation occurred.

NW030054

This case involved a landowner who conducted unauthorized stream work while trying to protect his property along the Wind River in Washington. The landowner used heavy equipment to alter the flow of the river and placed large rocks to protect his property from riverbank erosion. The landowner did not obtain the appropriate permits from the COE or WDFW. A site visit was attended by officials from WDFW, COE, the landowner and his environmental and engineering consultants. This situation is complicated by the need to address the violations and to protect the pond during future winter high flow events. Threatened spring run steelhead also occupy this river. WDFW and the COE are working with the landowner to obtain a work permit. This case was closed due to lack of evidence that an ESA violation occurred.

Case Number Withheld

On April 9, 2003, a Washington utility corporation initiated and completed repairs to its diversion dam. To facilitate this repair, the COE, downramped the dam, which reduced river flows from an estimated 2,000 cubic feet per second (cfs) to approximately 200 cfs. During the

dewatering event, biologists from local Tribes discovered a substantial number of stranded and dead salmonids. Approximately 300 specimens were recovered and turned over to NW OLE.

Case Number Withheld

This investigation involves a violation of a Section 7 permit. A Washington boat building company obtained permits from NOAA Fisheries, and various other agencies, to repair the company's vessel launch ramp. The work on the ramp grossly exceeded the scope of the permits.

Case Number Withheld

This investigation involves the illegal take of a threatened chinook salmon from the Nooksack River. An individual was observed by Nooksack Tribal officers with a large fish, later identified as a chinook salmon, in his possession. The respondent was contacted by the officers in an area closed to fishing. A WDFW officer responded and took custody of the fish. Laboratory tests of the salmon revealed it was a hatchery run fish that was protected under the ESA. This case package was forwarded to GC for prosecution.

Case Number Withheld

This case involves the removal of mature alder and spruce trees along Bear Creek, near Astoria, OR. The subject received a non-commercial permit to remove up to a 1/2 acre of timber on his property by the Oregon Department of Forestry (ODF). The subject met with the Soil and Water Conservation, Watershed Council and the Oregon Department of Fish and Wildlife (ODFW) prior to removing the mature trees.

NW030206

This case involved a private landowner in Scappoose, OR who was commercially logging his land. The complainant was concerned with the potential harm to ESA listed chinook and steelhead in South Scappoose Creek caused by the logging. The landowner refused to allow access on his land to view the logging operation. The logged property was observed from the complainant's side of the creek. A site visit was conducted by NW OLE, a NOAA Habitat biologist and an ODF forester. The NOAA Fisheries Habitat biologist concluded there was not enough evidence to support an ESA section 9 "take" violation and this case was closed due to lack of evidence.

NW030208

This case involved the removal of riparian vegetation from a COE constructed revetment. The COE revetment was built in the early 1970's for an Oregon conservation district. The district annually clears vegetation from the revetment. The complainant notified NW OLE of the potential harm to ESA listed chinook salmon and steelhead. The County Code Enforcement issued a cease and desist order for the un-permitted vegetation removal. The conservation district is attempting to get a permit to remove the vegetation. A NOAA Fisheries Habitat biologist concluded there was not enough evidence to support an ESA section 9 "take" violation and this case was closed due to lack of evidence.

NW030209

This case involved the aerial spraying of Malathion for agricultural purposes in The Dalles, OR area. The complainant did not observe any dead fish as a result of the spraying. A NOAA Fisheries Habitat biologist concluded there was not enough evidence to support an ESA section 9 “take” violation and this case was closed due to lack of evidence.

NW030210

An environmental group complained that landowners had removed riparian vegetation along the banks of Dean Creek. They also stated the landowners were planning a July 4th weekend 4-wheel drive mud-bog event that would allow vehicles into the creek. A post July 4th follow-up site visit was conducted by NW OLE and officials from the WDFW. The landowners were in full compliance with the WDFW Hydraulic Project Approval they were issued. No impacts to ESA listed fish were observed and this case was closed due to lack of evidence.

Case Number Withheld

This case involves the alleged “take” of threatened Middle Columbia River steelhead by a Washington county Public Works Department. The department used heavy equipment to fill in road and creek crossings on a county dirt road and re-channeled the adjacent creek. The county failed to obtain appropriate federal, state and local permits for the work. The county is taking full responsibility for their employees actions. Two dead rainbow/steelhead were collected by a WDFW Habitat biologist and turned over to NW OLE. The two dead fish are being forensically tested. The county has contracted with a company to repair the environmental damage.

Case Number Withheld

This case involves stranded steelhead caused by an Oregon utility corporation. Adult salmon and steelhead became stranded due to a combination of utility practices and water flows. In July of 2003, the corporation installed flash boards to divert water into their generators. The lack of water stranded salmon and steelhead and the ODFW observed dead salmon and steelhead in a pool. The utility corporation is re-licensing their facility and modifications to provide an egress for fish during high and low water flows are scheduled for 2005.

NW030243

This case involved a fish passage issue on the Lewis and Clark River on the coast of Oregon. A nearby city operates two dams for drinking water. ESA listed salmon and steelhead have difficulty negotiating the fish ladders during low water flows. The local watershed council is working with the city to install flash boards during low water flows. This case was closed due to lack of evidence that an ESA violation occurred.

Case Number Withheld

This case involves the take of endangered Upper Columbia River steelhead on a creek in WA. On the initial attack on the wildland fire, two retardant drops occurred directly on the creek. An estimated 6,800 endangered steelhead died as a result of the fire retardant. This is the only perennial stream in the basin that is not affected by man-made barriers or irrigation diversions. During a 2001 wildland fire, fire retardant was also dropped on this creek which killed

endangered steelhead. As a result of the 2001 fire a significant amount of funding was provided for rehabilitation and recovery efforts. Currently, four years of endangered steelhead have been killed or significantly impacted by fire fighting retardant and fire fighting activities.

NW030248

On August 11, 2003, NW OLE received a complaint that a state hydrology violation may be affecting endangered species. The alleged violator built a rock dam in Evans Creek, which is in the Bear Creek watershed, without the required permits. In addition, the complainant said the violator had dredged the creek and built an island. The complainant claimed listed chinook salmon inhabit the creek and a NOAA Biologist Team Leader confirmed that listed salmonids use that creek. The complainant was advised that the information was referred to WDFW for investigation of a state hydrology violation.

Case Number Withheld

NW OLE received a complaint from a NOAA Fisheries biologist concerning un-permitted alterations to Harvey Creek performed with heavy equipment. Harvey Creek is critical habitat for Oregon Coast (OC) coho salmon and is a tributary to the Umpqua River. The property owner was investigated earlier this year and warned about conducting un-permitted in stream work and possible ESA violations. In August 2003, a NOAA Fisheries biologist and NW OLE agent, ODSL enforcement team leader, Oregon State Police (OSP) trooper and an EPA wetland ecologist met with the property owner. The property owner used heavy equipment in two locations to contour the bottom of Harvey Creek, move log jams from the middle of the creek to the edge, and cut out log jams with a chain saw. The property owner conducted these actions knowing the ESA prohibitions, which resulted in adverse effects to threatened OC coho salmon.

NW030266

On September 2, 2003, NW OLE received information concerning a possible ESA violation in Okanogan County Washington. In response to this complaint, NW OLE opened an investigation and learned that on or about August 18, 2003, a local irrigation district constructed a diversion dam that blocked off the entire width of a river to enhance flows into their irrigation intake canals. The river is known to contain ESA listed steelhead. No dead fish were observed or recovered by witnesses. Due to lack of evidence of a "take" the case was closed.

NW030274

NW OLE received a citizen complaint regarding the construction of a natural gas pipeline between Roseburg and Coos Bay, OR. The pipeline construction company's right-of-way crew sidecast a large volume of material into a dry stream channel that is connected to Cherry Creek. Cherry Creek is a tributary of the Coquille River and inhabited by OC coho salmon. The sidecast material would create a chronic source of turbidity if not removed. Coos County administers the pipeline contract through their environmental compliance representative. The sidecast material was removed with a drag line excavator and hauled off-site. This case was closed due to lack of evidence.

NW030279

NW OLE received a citizen complaint that the South Umpqua River (SUR) had turned "white." OC coho salmon inhabit the SUR. In conjunction with OSP troopers, a sediment plume was documented. The plume was caused by a permitted construction project for an effluent outfall for the City of Myrtle Creek. Fine sediment associated with two-inch minus drain rock was pumped into the river. The plume lasted four hours and was in accordance with ODSL and COE permits. According to NOAA Fisheries and ODFW biologists, the sediment plume was unlikely to cause a "take" of OC coho salmon. The contractor agreed to wash the gravel off-site, prior to use in the river. No violation of the ESA was documented and this case was closed.

NW030281

NW OLE received a citizen complaint regarding the construction of a natural gas pipeline between Roseburg and Coos Bay, OR. The pipeline construction company was directionally drilling under a creek when the shaft rock fractured. The fractured rock caused an unknown quantity of bentonite drilling mud to leak up into Middle Creek under pressure. Middle Creek is a tributary of the Coquille River and inhabited by OC coho salmon. The bentonite clay spread downstream 1000 feet covering the creek bottom. After coordination with Coos County's environmental compliance representative, Oregon Department of Environmental Quality (ODEQ) and NOAA Fisheries biologists, the COE issued a cease and desist order and reinitiated consultation. This case was closed due to lack of evidence and was referred to the COE.

NW030295

On September 15, 2003, the NOAA Fisheries Enforcement Hotline received a complaint from the Washington State Patrol dispatch regarding a Sei whale that was found dead in Freshwater Bay off the Olympic Peninsula. The NOAA Marine Mammal Coordinator advised that the death may have been the result of a ship strike. A Senior Research Biologist with Cascadia Research, advised a marine vessel had reported a whale on its bow while nearing Port Angeles. The Cascadia Research biologist contacted the United States Coast Guard (USCG) and learned that the captain of the vessel reported the whale incident on September 12 at 2030 hours. NW OLE spoke with the owner of the vessel who stated that the captain first became aware of the whale when he came near Port Angeles and slowed down to take on a pilot. As the vessel slowed down the whale slid off the bow and floated free. This case was declined for prosecution.

Case Number Withheld

This investigation began when a NOAA biologist contacted NW OLE after learning of a project that went beyond the scope of consultation. Allegedly a landowner had installed a culvert and constructed a pond in Critical Habitat destroying a tributary to Challis Creek in Idaho. NW OLE has initiated an investigation into this incident. The COE and Idaho Department of Water Resources (IDWR) are also investigating the actions of the landowner.

Case Number Withheld

This investigation involves multiple un-permitted actions on United States Forest Service (USFS) and private property that may have impacted listed salmon. Use of heavy equipment and suspected violations of grazing agreements in Camas Creek are being investigated. Two wild

salmon were found in Camas Creek that may have been taken by sport fishers. In Duck Creek, a tributary to Camas Creek, a private citizen installed and removed an un-permitted and improper culvert that prevented fish passage. NW OLE attended a site visit with NOAA biologists, USFS biologists, United States Fish and Wildlife Service (USFWS) biologists, USFWS Enforcement and USFS Enforcement. The investigation continues concerning the impacts to listed species and the USFS will be addressing obvious trespass and road building violations on the Salmon Challis National Forest. The COE and IDWR will also be addressing 404 Clean Water Act in-stream work issues.

Case Number Withheld

This investigation began when a NOAA biologist in Salmon, ID was contacted by a landowner who reported the de-watering of Agency Creek. NW OLE and a NOAA biologist met with the complainant and documented the dried creek bed and the barrier causing the de-watering. The Idaho Department of Fish and Game (IDFG) confirmed that listed species are present in Agency Creek.

Case Number Withheld

This investigation involves fuel leakage into the Salmon River detected by the Environmental Protection Agency (EPA). Further information is being gathered.

Case Number Withheld

This investigation began when a USFWS biologist noticed a new home being constructed near McDevitt Creek. NW OLE and a NOAA biologist traveled with IDWR, COE and USFWS to meet with the owner of the new home. The homebuilders completely filled in the McDevitt Creek channel and poured the foundation for the house. A new channel was dug at a higher elevation above the house site to accommodate a septic field.

Case Number Withheld

This investigation began when two wild adult fish were found behind a fish screen at a diversion. A similar incident occurred in 2001, where flows were higher from irrigation runoff than the river and falsely attracted salmon returning to spawn. The salmon swam up the waste return water and were killed by the paddle operating the fish screen. GC declined prosecution of the 2001 take investigation, due to the implementation of an agreement with the local irrigation district. NOAA biologists have documented the current event in a letter dated July 17, 2003, to the State of Idaho and the irrigation district. NOAA biologists believe that irrigators have met the requirements outlined in the agreement and are working on a permanent solution to this problem by installing a weir.

NW030303

This investigation began when an IDFG Regional Conservation Officer, in the Middle Fork drainage of the Salmon River, was contacted by the USFS river patrol. The river patrol reported they saw 12 to 15 dead whole salmon floating two miles below Boundary Creek and 3 to 4 miles below Dagger Falls over the weekend of July 19 - 20, 2003. Photographs were not taken, nor were fish collected. NOAA biologists believe the fish may have died due to increased water

temperature, disease or both. This case was closed due to lack of evidence.

NW030304

This investigation began when a NOAA biologist received an anonymous phone call describing an individual dumping fill and debris into the Little Salmon River. The caller also believed the fill was being dumped on and covering two flow control barbs installed by the Federal Emergency Management Agency (FEMA). NW OLE contacted the IDWR regulatory representative, who suggested calling the IDFG officer located in that area. The IDFG officer contacted the landowner who described the activity as a bit of fill and a couple of trees pushed over the bank but not into the water itself. IDWR met with the landowner and is working toward restoration and possibly citing the landowner. This case was closed due to lack of evidence that an ESA violation occurred.

NW030305

This investigation began when a NOAA biologist was contacted by an IDFG biologist. The IDFG biologist had been contacted by a complainant who claimed that several Native Americans were seen harvesting salmon above the South Fork of the Salmon hatchery. NW OLE contacted the complainant who failed to provide any evidence and this case was closed due to lack of evidence.

NW030306

This investigation began when a NOAA biologist received an email from an IDFG Regional Fisheries Manager describing a 23,000 acre fire in the Hayden Creek watershed. A NW OLE agent traveled to Salmon, ID and met with IDFG, a USFWS biologist and a NOAA biologist to study a portion of the irrigation ditch where a landslide occurred. According to IDFG, a screen shop fish shocking crew salvaged fish trapped in the irrigation canal, including ESA protected chinook salmon. The crew returned the following day to find approximately 70 - 75 chinook parr dead in a pool trapped by the landslide which they could not reach the day before. This case was closed due to lack of evidence.

NW030307

This investigation began when a NOAA biologist, working on an Idaho trail relocation project with the USFWS, learned that work occurred and was concluded before the consultation was completed. According to NOAA biologists, only bulltrout, under the jurisdiction of the USFWS, would have been impacted. This case was referred to USFWS.

NW030308

This investigation began when a NOAA biologist in Boise, ID was working with the Payette National Forest on fisheries projects. A USFS biologist notified the NOAA biologist of a chinook redd that may have been run over by an off-road vehicle, most likely a 4-wheel ATV. NW OLE collected photos taken before and after the complaint of the crossing, showing two tracks entering and exiting Grouse Creek with a chinook redd in between. NW OLE and a NOAA biologist traveled to the site and confirmed the photographs but could not document any visual impacts to the redd. The USFS placed rock barriers at the closed crossing to stop all

unlawful access to the creek. This case was closed due to lack of evidence.

NW030309

This investigation began when a NOAA biologist in Boise, ID, working on fisheries projects within the Payette National Forest, was contacted by a USFW biologist that a chinook redd may have been run over in Big Creek. NW OLE received a statement from a USFS biologist asserting that a redd counter from IDFG, working with two redd counters from the Nez Perce Tribe, saw a truck drive over a redd in the Lick Creek ford crossing in Big Creek. NW OLE spoke with the IDFG redd counter who said he only saw tire tracks and those tracks did not cross the "pillow" of the redd where the eggs would be located. NW OLE and a NOAA biologist traveled to the site with an IDFG officer but could not document any visual impact or a redd in the ford. NW OLE contacted the Nez Perce Fisheries biologist who had been working with the IDFG redd counter. The Tribal biologist said that he remembered the day and that no vehicle was seen traversing at the Lick Creek crossing. This case was closed due to lack of evidence.

NW030310

This investigation began when a NOAA biologist in Salmon, ID received a call from a USFS employee reporting the possible "take" of listed chinook redds, by cattle trampling in Bear Valley Creek. A NOAA biologist traveled to Bear Valley Creek with representatives from the USFS, USFWS and a number of local ranchers. The NOAA biologist identified bulltrout and chinook redds but "saw no clear signs of direct cattle effects on the redds or fish". This case was closed due to lack of evidence.

NW030311

This investigation began when a NOAA biologist in Salmon, ID received a call from the IDFG reporting the "take" of listed chinook. The incident occurred while IDFG was conducting fish salvage operations, during a time Hayden Creek diversion #11 was abruptly shut off by the watermaster. NW OLE received a written statement from IDFG describing the salvage that took place. There were no listed chinook or steelhead mortalities described in the statement of events. This case was closed due to lack of evidence.

NW030312

This investigation began when two NOAA biologists in Boise, ID were working with the Idaho Transportation Department (ITD) in the Sawtooth National Recreational Area (SNRA) to consult on actions that may affect ESA listed fish. Allegedly someone removed trees, otherwise referred to as Large Woody Debris (LWD), from the abutments of the Buckhorn Bridge across the Salmon River along Highway 75 without consulting with NOAA Fisheries. Specific removal techniques would have been required to minimize impacts to listed species spawning in the area. NOAA biologists, in cooperation with the SNRA, looked into the failure to consult, targeting their investigation on road crews in the area. This case was closed due to lack of evidence.

NW030313

This investigation began when a Payette National Forest Fisheries biologist contacted NW OLE concerning Valley County road crews side-casting into the South Fork of the Salmon River. This

latest complaint describes the fill blocking a staging pool for bulltrout. NW OLE referred the complaint to the USFWS Law Enforcement Office in Boise, ID. USFWS and NW OLE agreed to meet with the Valley County Sheriff for assistance in this matter. This case was closed due to lack of evidence that an ESA violation occurred.

NW030269 / NW030270 / NW030271 / NW030273 / NW030314 - NW030329

These cases involved the potential sales of sea turtles, sea turtle parts, cowboy boots or other items apparently made from sea turtle leather. As a problem solving and education approach to dealing with these types of potential violations, NW OLE has been working with the E-Bay auction site to remove these items from being offered for sale. E-Bay reserves the right to close any auction at its discretion and when they believe an item may be illegal (or when NW OLE alerts them to a potentially illegal item) they withdrawal the item from auction. Sellers of potentially illegal items receive a letter from E-Bay explaining potential violations of the ESA and Lacey Act and sellers are referred to NW OLE for further information.

Case Number Withheld

This complaint involved a report from a NOAA Fisheries Habitat biologist in Boise, ID regarding the de-watering of the Umatilla River in Oregon. In late July, the biologist was traveling on Interstate 84 along the Umatilla River when he observed the river was mostly dry with some intermittent pools of water. NW OLE spoke with the Oregon Habitat Division Branch Chief and learned the agency is working on the ESA Section 7 consultation with the appropriate parties. A decision was made to allow the ESA Section 7 consultation to be completed before investigating any unauthorized take by private landowners or irrigators.

NW030335

NW OLE and a NOAA Fisheries Habitat biologist conducted a multi-agency site visit of an ESA habitat destruction complaint in West Linn, OR. The complaint, referred by the COE, involved a resident installing culverts, removing riparian vegetation and re-channeling Wilson Creek, all with the landowner's knowledge. Approximately 1,800 feet of work was completed without obtaining a permit. Officials from the COE, ODSL, ODFW, ODEQ, EPA, USFWS, Clackamas County Code Enforcement and NOAA Fisheries attended the site visit. NW OLE has learned there are two barriers to fish passage downstream of Wilson Creek. Two culverts below Wilson creek make it impassible for ESA listed salmon and steelhead to move upstream into the area in question. This case was closed due to lack of evidence.

NW030336

NW OLE received a citizen complaint regarding the construction of a water intake system for the city of Oakland, OR in Calapooya Creek. Calapooya Creek is a tributary of the Umpqua River and inhabited by OC coho salmon. A construction company was removing an old earthen and concrete dam without adequate turbidity protection. A turbidity cloud was visible 1,000 feet downstream in violation of their COE permit. After contacting the construction superintendent, immediate changes were made to isolate the work area and reduce the turbidity to within permitted levels. This case was closed for lack of evidence and referred to the COE.

LACEY ACT Investigations

Case Number Withheld

This case involves the illegal harvest of Russian blue king crab and its transshipment in Russian waters via a fishing vessel. The unlawful product subsequently entered the United States at the Port of Seattle on a separate merchant vessel. NW OLE received information that the merchant 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 merchant 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 transhipped in Russian waters, contrary to Russian law. With the assistance of the Bureau of Immigration and Customs Enforcement (BICE), formerly US Customs Service, 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 was sold at auction.

NW030098

This case involved a bait shop in Clackamas, OR which allegedly purchased sand shrimp from a Washington resident. A WDFW officer notified the case agent of the potential Lacey Act violation. The Washington resident did not have a commercial fishing license to sell sand shrimp (bait). In addition, the resident did not have a fish buyers license in Washington nor was he completing fish tickets for the sand shrimp. WDFW and OSP executed a search warrant on the Oregon bait shop in May 2003. WDFW issued a citation for not obtaining a commercial fishing license. This case was closed due to the lack of evidence of a Lacey Act violation.

Case Number Withheld

GC has issued a Notice of Violation and Assessment (NOVA) to the two defendants in this case for importing crab illegally caught in Russia, and is currently in negotiations regarding the amount of the NOVA.

NW030174

This investigation originated as a referral from WDFW concerning the illegal introduction of Mexican geoduck clams into Washington state waters. Investigation into this matter indicates that the subject may have smuggled the clams into the United States and then brought them to the state of Washington. NW OLE referred this case to the BICE to follow-up on the smuggling allegation. Due to the low valuation of the product, it appears that BICE will close their investigation. The subject was charged at the state level for the illegal importation of these clams into the state of Washington. NW OLE presented the facts of this case to the AUSA and GC who both felt that the state had adequate means to prosecute this case. This case was closed as declined for prosecution.

NW030211

The OSP reported an Oregon resident selling Copper River salmon along the roadside in the Portland, OR area. OSP cited the seller for inadequate fish dealer records. The seller received the salmon from a commercial fisherman in Alaska, and the seller and commercial fisherman

were splitting the profits. The shipment was received by Alaska airlines freight. NW OLE confirmed the salmon were caught by a legal commercial fisherman in Alaska. This case was dismissed due to the lack of a violation.

MAGNUSON ACT Investigations

NW030169

This case involved a fishing vessel incursion into the Rockfish Conservation Area (RCA). The crew aboard a USCG C130 aircraft documented the vessel fishing with limited entry groundfish trawl gear in the RCA. Evidence collection and interviews were conducted by NW OLE, and as a result a written warning was issued to the operator of the vessel.

NW030175

This case involved a vessel fishing for halibut in the RCA. The fishing vessel was observed in the RCA by the USCG Cutter ORCAS during the 10-hour halibut opener. NW OLE interviewed the operator and after reviewing the evidence, this case was closed due to lack of evidence.

MARINE MAMMAL PROTECTION ACT Investigations

NW030239

NW OLE received a call from a USFWS Inspector in Minnesota. Two seal skins were unlawfully imported into the United States and the USFWS requested to transfer the items to NW OLE. The USFWS inspector obtained voluntary abandonments for the furs and the items were received by NW OLE.

NW030103

This case involved the illegal killing of a California sea lion on the Lewis River by an individual who fired a 12 gauge shotgun at the sea lion. Witnesses who observed this violation called the NOAA Fisheries Enforcement Hotline to report the offense. NW OLE responded and obtained a written confession from the respondent. NW OLE agents, working closely with WDFW officers, subsequently located a sea lion carcass down river and obtained 00 buckshot pellets from the head of the carcass. The state of Washington charged the respondent with illegally hunting protected wildlife, a misdemeanor, and the respondent plead guilty to the charge. GC issued a \$7,000 dollar NOVA to the respondent, which was subsequently paid in full.

NW030237

On August 6, 2003, NW OLE received a complaint that an individual removed a harbor seal pup from a beach on Whidbey Island and placed it in a bathtub. NW OLE investigated the complaint and determined that the subject had in fact removed a harbor seal pup and temporarily placed it in a bathtub, and then returned the pup to the same beach. The circumstances of this case warranted a verbal warning. The beach where this violation occurred was subsequently posted with the newly designed Marine Mammal warning signs.

NW030261

This case involved the death of a stranded Braids beaked whale in Seaside, OR. The whale beached itself on Sunday, August 10, 2003 and subsequently died. A local tour helicopter was reported hovering over the whale during the stranding. NW OLE completed interviews with the pilot, local police, fire officials and a passenger on the one of the last flights. NW OLE consulted with GC and concluded there was no violation.

Alaska Observer Cases Investigated by the Northwest Enforcement Division

Case Number Withheld

This case involves an observer complaint involving halibut mishandling. The crew aboard a fishing vessel were observed allowing halibut to strike the crucifier before returning them to the sea. A \$10,000 Enforcement Action Report (EAR) was issued to the operator of the vessel, but was retracted when a set of original notes of the observer was discovered documenting at least eight instances of halibut mishandling.

CRIMINAL

MAGNUSON ACT Investigations

Case Number Withheld

WDFW requested assistance from NW OLE in an investigation of a seafood packing corporation and several individual fishermen.

LACEY ACT Investigations

Case Number Withheld

On December 3, 2003, one defendant pled guilty to a felony count of conspiracy to defraud the United States. The other defendant pled guilty to a felony count of submitting false statements. Both defendants were responsible for the illegal purchase of 215,000 pounds of groundfish, halibut and salmon worth \$650,000 dollars. The AUSA has informed NW OLE that criminal charges are being pursued against eight additional co-conspirators. Formal letters have been sent to each of the defendants offering a misdemeanor plea bargain for their participation in the conspiracy. Sentencing for both defendants has been postponed until all parties have been heard from regarding the pleadings.

Case Number Withheld

This case involves violations of the Lacey Act, Shipping Act, Fraud and Conspiracy. The subjects are under investigation for filing a fraudulent application for United States vessel documentation, conspiracy to violate the United States ownership provisions under the Shipping Act, export of marine products to British Columbia from Alaska in violation of Alaska state law and other state and federal violations. Approximately \$180,000 dollars worth of product was illegally harvested. The case is under joint investigation with AK OLE and the USCG Investigative Service.

MARINE MAMMAL Investigations

Case Number Withheld

This case involves the unlawful take of a harbor seal in the San Juan Islands. A Canadian citizen captured an abandoned seal pup while on board a sailboat and contacted a Canadian rehabilitation facility to transport the seal to Canada. Before the unlawful export took place, NW OLE contacted a US based rehabilitation center and had the animal transported there by a volunteer pilot.

Case Number Withheld

This case involves a conspiracy to submit false statements. Preliminary statements from witnesses have been taken, and an analysis of landings is being prepared. The USA's office has been contacted and is interested in pursuing criminal charges in the case.

Other Statutes/Investigations

NW030207

An operator of a small pleasure vessel was stopped and boarded by BICE and NW OLE agents. NOAA Fisheries agents were engaged in a joint interdiction at sea enforcement operation aboard the NOAA patrol vessel SHORT RAKER 1. The operator's vessel was stopped as it was headed outbound to Canada and a search of the vessel revealed 13.6 kilos of cocaine. The operator was taken into custody and transported to the local USCG station aboard the SHORT RAKER 1.

COPPS

A NW OLE agent attended a marine mammal meeting at the Washington Department of Natural Resources regarding conflicts on Department of Natural Resources (DNR) land between recreational users and marine mammals. In addition to attending the meeting, NW OLE responded with a COPPS approach and donated signs to the DNR for placement in DNR areas where these complaints are originating. In addition, NW OLE agents patrolled the area in the NOAA vessel SHORT RAKER 1 to deter and detect MMPA violations.

A NW OLE agent spoke to approximately 15 newly hired Customs and Border Protection (CBP) inspectors about the NOAA Fisheries Enforcement mission, and the laws and regulations we enforce. The agent displayed numerous seized and abandoned items from the NW OLE marine mammal display, and handed out various pamphlets relating to marine mammals and endangered species.

NW OLE conducted an ESA presentation for 12 members of the Oregon Association of Counties (www.oacweb.org/em). The presentation focused on best road maintenance practices to minimize adverse effects to listed species. The group consisted of state and county road maintenance supervisors.

NW OLE staffed an information booth at the 2003 PAWS Bark in the Park event in Seattle, WA. This year's annual Bark in the Park event drew about 4,000 people and their pets. The crime

prevention and community outreach/education message for the public was to control their pets when encountering marine mammals on the beach and to view marine mammals from a reasonable distance. This event provides an opportunity for NW OLE to educate dog owners about the MMPA and expose them to MMPA issues relating to human and pet interactions with marine mammals. Agents answered questions and handed out informational brochures, pamphlets and gave away outreach items.

PARTNERSHIPS

Washington

NW OLE agents participated in two marine enforcement operations that targeted smuggling from Canada. These two multi-day operations took place at sea at the U.S. Ports of Entry along the Canadian border in Blaine, WA. Agencies that participated in the operations included USCG, BICE, U.S. Navy, CDFO, USFWS and WDFW. Federal and state violations were detected during these operations and some are included in this report.

NW OLE participated in a WOC Fisheries Patrol aboard the USCGC ACTIVE off the coast of Oregon. Numerous salmon trollers were boarded. No fisheries related violations were observed, but several USCG safety violations were documented.

NW OLE met with WDFW personnel in Longview, WA, to discuss local joint enforcement issues involving ESA salmon.

Oregon

NW OLE worked with ODFW, USCG and the BICE on several issues that surfaced during the quarter. Among these issues were the handling of prohibited species under Experimental Fishing Permits as well as the use of large and small footrope bottom trawls during the same trip limit period. Other issues discussed involved Canadian flagged vessels conducting research under NMFS contract off the US coast, and landings of groundfish, whiting and tuna by Canadian vessels at US ports.

NW OLE assisted a USFWS agent during the voluntary abandonment of a polar bear hide at a home in West Linn, OR.

NW OLE attended the Portland Marine intelligence meeting. The monthly meeting was attended by local, state, and federal agencies and department of defense law enforcement officials with a nexus to marine law enforcement.

NW OLE attended two biannual natural resource meetings hosted by the OSP in Coos Bay and Central Point. Representatives from the following agencies discussed recent cases, strategies and solutions: OSP, ODFW, ODSL, Oregon Department of Transportation (ODOT), ODEQ, Oregon Water Resources Department, ODF, Jackson, Coos and Curry County Code Enforcement, EPA, and the USCG.

NW OLE and a NOAA Fisheries biologist attended the Rogue Basin Fish Passage Technical Committee bimonthly meeting in Medford, OR. Participating agencies included the USFWS, BLM, ODFW, OSP, Rogue Basin Coordinating Council, and Applegate River Watershed Council.

NW OLE spoke with the Columbia River Inter-Tribal Fisheries Enforcement about current tribal enforcement activities along the Columbia River.

NW OLE attended the NOAA Fisheries Portland Habitat Conservation Division staff meeting. A discussion of the programmatic BO for the COE, Standard Local Operating Procedures for Endangered Species was conducted. NW OLE discussed the role of OLE.

NW OLE attended a storm water spill committee meeting in Portland, OR. The committee is comprised of city, county, state and federal stakeholders involved with hazardous spills which enter waterways through storm water drains. NW OLE discussed OLE's responsibility for protecting endangered and threatened salmon and steelhead.

Idaho

NW OLE continues to work with the NOAA Biological staff, USFWS, USFS, COE and IDFG to develop and share information and enforcement strategies while addressing ESA concerns.

NUMBER OF CASES OPENED BY INVESTIGATION TYPE
FY02 and FY03

Investigation Type	FY02 4th Quarter	FY02 Total	FY03 4th Quarter	FY03 Total
ESA	35	118	64	151
Lacey Act	3	7	1	7
Magnuson Act	21	95	59	191
MMPA	31	61	20	73
Marine Sanctuaries	1	2	1	2
Intl. Pac. Halibut Conv.	1	4	0	5
Other Fisheries Invest.	1	8	0	1
Non-Fisheries Federal Reg.	0	1	1	8
State Regulations	1	4	1	13
Tribal Regulations	0	0	2	2
Tuna Conventions Act	0	0	0	1
TOTAL	94	300	149	454