

**National Marine Fisheries Service
Office of Law Enforcement**

***West Coast Enforcement Division Report to
Pacific Fishery Management Council***



June 2015

**NOAA Fisheries Office of Law Enforcement
West Coast Enforcement Division
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Seattle, Washington 98115**

**To Report Fisheries Violations:
Call the National Hotline at 1-800-853-1964**



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The New West Coast Enforcement Division

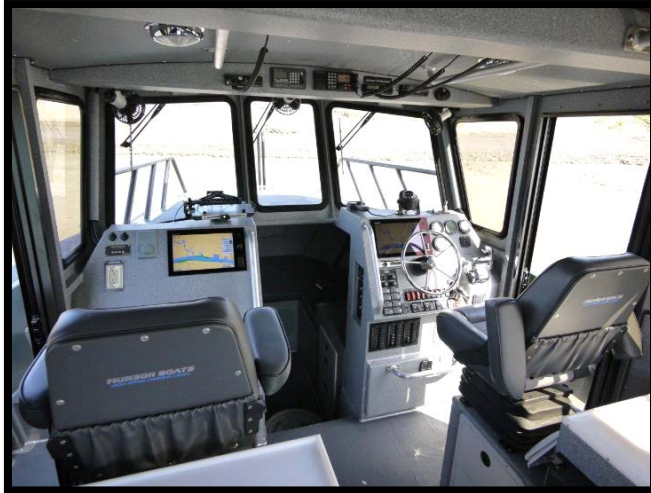
The Northwest Enforcement Division of the U.S. Department Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Office of Law Enforcement (OLE), merged with the Southwest Enforcement Division in June of 2014, to become the newly formed West Coast Division (WCD). The WCD provides marine enforcement and compliance assistance for the west coast, primarily California, Oregon and Washington, but also includes Arizona, Colorado, Idaho, Montana, Nevada, North Dakota, South Dakota, Utah and Wyoming. Our staff includes special agents, enforcement officers, and support personnel stationed in California, Oregon and Washington. The states of Washington, Idaho, Montana and North Dakota include 1,327 miles of the international border with Canada; the states of California and Arizona include 513 miles of international border with Mexico; there is 1,293 miles of rigorous Pacific Ocean coastline and 7,863 miles of tidal shoreline; five National Marine Sanctuaries, to include 290 Marine Conservation Areas; Puget Sound; 21 major international seaports; 18 international airports; 222,471 square nautical miles of Pacific Ocean; and 339,375 square miles of land encompassing numerous rivers and tributaries feeding into the Pacific Ocean.

In June 2014 the Office of Law Enforcement, West Coast Division permanently filled the special agent-in-charge position, whose title has been changed to assistant director. The assistant director now oversees a staff of 38 administrative and sworn personnel. During this past year the WCD lost two special agents from the Santa Rosa office who transferred to another federal agency in September of 2014, and was able to fill one vacant special agent position in January with an OLE transferee to Santa Rosa from American Samoa. The WCD also added one new enforcement officer to the WCD who will be stationed in Coos Bay, Oregon when he returns from training in August; and was able to hire a replacement enforcement officer for Astoria, Oregon to replace an officer who transferred to the Southeast Division. The WCD is in the finale process of hiring two supervisory enforcement officers, one who will be assigned to Astoria, Oregon (North Coast) and the other to Alameda, California (South Coast). The WCD anticipates adding four new enforcement officers this year, one each for Bellingham, Washington; Alameda, Long Beach, and San Diego, California; and a fifth officer for Monterey, California who will replace the current enforcement officer who has announced his plans to retire in July. Our administrative staff has seen no changes in the past year.

Office of Law Enforcement - Cooperative Enforcement Program

Under the Federally-funded NOAA Fisheries Cooperative Enforcement Program (CEP), OLE has ongoing Cooperative Enforcement Agreements (CEA) and Joint Enforcement Agreements (JEA) with three west coast state agencies: California Department of Fish and Wildlife (CDFW) – Law Enforcement Division, Oregon State Police (OSP) – Fish and Wildlife Division, and Washington Department of Fish and Wildlife (WDFW) – Enforcement Program. These agreements extend Federal authority for state agencies to enforce specific Federal laws and regulations in alignment with the WCD's priorities. These agreements also establish a framework for providing reimbursement for state work performed in support of Federal fisheries enforcement priorities. In addition to providing reimbursement for direct Federal fisheries enforcement work performed by state officers, state administrative overhead, capital purchases (boats, vehicles, radios, computers, etc.), and services (maintenance of equipment and vessels). The agreements foster a cooperative environment; produce a viable, collaborative, and consistent approach to federal and state living marine resources enforcement and management.

The CEP contributed \$409,582 towards the \$516,125 required to purchase WDFW's new 37' Munson Long-Range Patrol vessel. The project took months to plan and build a vessel capable of performing to the expectations of marine patrol duties. Since the purchase, WDFW has added a \$40,000 Forward Looking Infrared (FLIR) observation system.



Joint Enforcement Highlights by State

California Department of Fish & Wildlife

- A joint undercover surveillance operation was conducted with the CDFW on the Mad River in northern California. The operation revealed that six wild steelhead had been taken illegally. The fishermen were contacted and found to be fishing without punch cards and with barbed hooks in addition to the illegal taking of the steelhead. The violations were forwarded to a state warden for action.

-OLE, with the assistance of CDFW wardens, U.S. Fish and Wildlife Service (USFWS), and Customs and Border Protection (CBP), conducted a border blitz operation at the San Ysidro and Otay Mesa Ports of Entry, inspecting vehicles returning to the U.S. from Mexico. A total of 128 vehicles were inspected, one vehicle containing



Pismo clams was returned to Mexico because the product was not allowed to be imported. The group also conducted inspections of recreational vessels returning to San Diego Bay after fishing in Mexican waters. All vessels were in compliance with Mexican fishing regulations. The focus of this operation was to address Illegal, Unreported and Unregulated (IUU) issues, specifically the smuggling of totoaba bladders into the U.S., a National Fisheries Priority.

- A complaint was received related to critical habitat destruction and stream degradation that may have impacted endangered Central California coho salmon and threatened South Central California steelhead. A special agent conducted a site inspection and investigation along with California Department of Forestry and Fire Protection, CDFW wardens and Santa Cruz County Code enforcement officers. Unpermitted site work was discovered that involved the movement of over 100 cubic yards of material, creek bed modifications, and small dam improvements, including new concrete and other fill materials in the creek bed. The investigation revealed that no erosion prevention measures had been taken, and sediment had started to erode into the creek bed.

- WCD agents, participated in “Operation Jaws Paws” at the Los Angeles International mail facility along with CDFW, CBP, and USFWS inspectors. CDFW used their canine to assist with package inspections. This operation was in response to the President’s Task Force on stopping wildlife trafficking and was designed to inspect goods arriving from Asia. Items found included sea cucumbers (commercial quantity) and small quantities of contraband such as canned whale meat. Pictured below is officer Reno and his handler, Lt. Dave McNair, working a conveyor belt.



Oregon State Police

- A pulse operation was conducted in Portland in partnership with the OSP fish and wildlife troopers. Wholesale fish dealer permit holders were inspected, and OSP issued several warnings for minor fish ticket violations and possession of fish without documentation.



- Redd technicians from the Oregon Department of Fish and Wildlife were conducting field surveys on Tickle Creek, outside of Medford, Oregon, and discovered hundreds of dead fish that included threatened coho salmon. A joint investigation with the OSP was initiated into the fish kill. There was a heavy chlorine smell in the area where the dead fish were discovered and the investigation is continuing in an effort to determine if the chlorine was the cause of the fish kill and the source of the chlorine.

Washington Department of Fish & Wildlife

In an effort to address the Presidential Task Force on IUU fishing and combat IUU activity, the WCD has planned several inspection operations to inspect incoming seafood cargo at various border Ports of Entry and International Airports on the west coast.

- A joint IUU border operation involving WDFW, FDA, CBP, and OLE was conducted in Blaine, WA. Two containers were inspected, one which contained farmed salmon and the other was mixed farmed salmon and wild origin fish; no violation discovered.

-In December of 2014 an investigation was initiated on the construction of an unpermitted bulkhead on private property on Case Inlet, which is critical habitat for threatened Puget Sound Chinook salmon. The investigation determined that the homeowner constructed bank armoring, decking ramp, and a float without obtaining the required State of Washington hydraulic permit and a U.S. Army Corps of Engineers permit. The location of the construction is in an area used by surf smelt as a spawning beach. This is a joint investigation that is being conducted with the U.S. Army Corps of Engineers, WDFW, Washington Department of Ecology, and Mason County Community Development.

Tribal Engagement

- A joint tribal patrol was conducted on a WDFW vessel, during the 48 hour unrestricted tribal halibut fishery opener. Several skates of gear and vessels hauling gear were observed after the closure of the halibut opener. A tribal enforcement officer reported 8 vessels fishing up to 2-hours past the closure. The consensus among law enforcement was “poor compliance with the fishery closure.” Following the sea patrol, outreach was conducted with halibut buyers in Anacortes, Washington. International Pacific Halibut Commission (IPHC) regulations were provided to two buyers and catch and fish tickets were inspected. Several omissions on the fish tickets were identified and education provided to the buyers about the required information including vessel name and halibut condition. The product conversion rate used was not appropriate and follow-up will be conducted with fishery managers regarding this problem.

- OLE personnel attended the quarterly Columbia Basin Law Enforcement Committee meeting held in Hood River, OR at the Columbia River Inter-Tribal Fisheries Enforcement (CRITFE) headquarters. In attendance, was the Chief for CRITFE, Chief of Enforcement for the Nez Perce Tribe, an officer for the Umatilla Tribe, management representatives from WDFW, OSP, as well as other senior officials for CRITFE. The committee discussed the potential for developing a charter, current tribal laws and regulation changes, criminal trends in the Zone 6 fishery, and the potential for developing procedures for better accountability of tribal caught fish.

- A Makah tribal prosecutor contacted the WCD and General Council Enforcement Section (GCES) and requested legal assistance with an investigation of a tribal fisher accused of harvesting 300 undersized Pacific halibut. As a result of this enforcement partnership, the subject was convicted of two counts and received 30 days in prison, a \$3,000 fine, and one year suspension of fishing privileges. The prison term and fishing sanctions were suspended as long as no additional fishing violations occur.

Office of Law Enforcement – West Coast Division Investigations & Patrols

Investigations

Magnuson-Stevens Act

- Three separate investigations involving the owners and operators of the two fishing vessels that were fishing in deficit and in restricted areas were completed and forwarded to GCES. GCES issued three Notice of Violation and Assessments (NOVAs) for a combined total of \$115,203.

- A summary settlement was issued to the owner/operator of a Eureka based Trawl Rationalization vessel who had made two petrale sole trawl tows inside the Rockfish Conservation Area (RCA). The incursion was not detected until the dockside boarding occurred and the operator voluntarily told the agent he had used incorrect RCA lines. The owner/operator paid a fine of \$7,871.

- A \$4,000 Summary Settlement Notice was issued to the captain of an open access vessel that had fished in federal waters and landed groundfish valued at \$1,033 without a VMS unit installed on board.

CDFW's boarding team discovered the vessel had fished in federal waters without a VMS and referred the matter to OLE who initiated an investigation and issued the summary settlement.

- A \$500 summary settlement was issued to the captain of a groundfish trawl vessel out of Fort Bragg, CA. The captain self-reported that his vessel had drifted into a RCA off of Point Arena, CA, while he and his crew were asleep. The captain claimed he had shut down the vessel, while outside of the prohibited area, and assigned one of the crew to stand watch on a bridge. The crew member who was standing watch fell asleep and the vessel drifted into the prohibited area. When the captain awoke, he realized the vessel was inside the RCA and called NOAA OLE to report the violation. This was the fourth time the vessel had drifted into a RCA while the crew was sleeping.

- An investigation was initiated into the fraudulent application and receipt of an IPHC area 2A license. The investigation determined that an individual fished for Pacific halibut with a vessel license exceeding the vessel's overall length, and that a majority of harvested fish were not recorded on state fish receiving tickets. The investigation was referred to GCES who issued a two count NOVA totaling \$6,000.

- A WCD enforcement officer issued a written warning to the owner/operator of a fishing vessel for using barbed hooks while participating in the commercial salmon troll fishery. The vessel was boarded at sea by the United States Coast Guard (USCG), and the violation was documented and referred to OLE.

Marine Mammal Protection Act

A large number of sea lions have been appearing on coastal docks, beaches and at dam sites, such the Bonneville Dam on the Columbia River. Their increased presence has created the need for extra patrols and enforcement efforts.

- Oregon Department of Fish and Wildlife (ODFW) biologists, the Port of Astoria Executive Director and OLE met to discuss methods that the port could use to legally clear their docks of sea lions before the upcoming salmon season. The ODFW capture and tagging project was also discussed. ODFW voiced concern that protesters may attempt to flush sea lions out of the trapping area. OLE assured the group there would be patrols in the area to monitor the sea lions and would investigate MMPA violations.

- WCD enforcement officers conducted observations of California sea lions being branded by the ODFW. The purpose of the patrol was to prevent members of the general public from interfering with the branding by flushing sea lions off the dock. No violations were detected during the operation.

- In response to an increase of marine mammal sightings & human interactions at near shore beaches along the southern California coastline, the WCD put together informational flyers that were posted in the Redondo and Hermosa Beach areas as well as local fish and surf shops. The flyer is meant to bring awareness to paddle borders to maintain at least 100 feet from the marine mammals especially whales while paddle boarding. The flyer includes OLE's hotline number to report violations.

- An investigation was initiated after the receipt of pictures showing a subject intentionally flushing sea lions off of port docks in Astoria, Oregon. As officers approached the subject to interview him, they observed the subject use a slingshot to shoot marbles at sea lions as they swam by his boat. During the interview, the suspect also admitted to intentionally flushing the sea lions off of docks that were closed to the public. A summary settlement for \$100 was issued.

- In 2009, the Santa Monica based Hump Restaurant, was investigated for serving whale meat, specifically *sei whale* to its patrons. The owner and company, two sushi chefs, along with the supplier, conspired to hide their illegal activities. In May of 2015, a former employee of the restaurant was sentenced in U.S. District Court in Los Angeles for his role in the conspiracy to smuggle into the U.S. endangered sei whale meat from Japan. The person received a \$5,000 fine, 2-years probation, and 200–hours of community service. A second former sushi chef and a fish importer are scheduled to be sentenced in the near future. The restaurant closed its doors in 2010.

Endangered Species Act

Recognizing the importance of collaborative work in an effort to save listed species and protect critical habitat, ESA and critical habitat issues are one of the division's highest priorities. The WCD's enforcement personnel work closely with NOAA Fisheries biologists from the following area offices to address critical habitat impacts: Oregon & Washington Coastal, Interior Columbia River Basin, California Central Valley, and California Coastal. Several cases are highlighted:

- The Washington Attorney General's Office charged William Cayo, Sr. in Mason County District Court with violations of the Water Pollution Control Act, Shoreline Management Act, and conducting unpermitted hydraulic activities in connection with the alteration of the channel of the Tahuya River in early February 2013. Cayo used an excavator and bulldozer to fill the river channel near his home, and to redirect the river, which is critical habitat for threatened Hood Canal chum salmon and Puget Sound steelhead. In all, Cayo filled and graded nearly 1 ½ acres of river bed. William Cayo, Sr. was convicted and sentenced in Mason County District Court to 30 days in jail on each count, to be served concurrently. He was fined \$8,143, received two years of probation and was ordered to follow civil and criminal environmental laws. This was a joint investigation with WDFW and the Environmental Protection Agency – Criminal Investigation Division. The below link is to the attorney general's press release.

<http://www.atg.wa.gov/print/11942>



- In March of 2012, an investigation was initiated into the Oregon Department of Environmental Quality's (ODEQ) issuance of an National Pollution Discharge Elimination System permit to a towboat company for "log rafting" on Isthmus Slough, Coos County, Oregon. In 2012, OLE sent the ODEQ and the towboat company a cautionary letter based on NOAA Fisheries biologist's belief that unauthorized take (harm) would occur to threatened Oregon Coast coho salmon and eulachon, as a result of the issuance

and implementation of the log rafting permit. The company announced in March of 2015 that they will relocate their business to a dock, and log storage will be on land. This issue has been resolved and no further action will be required.

Sanctuary Activities

- An operator of a motorized personal watercraft (MPWC) was issued a \$350 Summary Settlement after he was observed by the USCG operating a jet ski inside the Monterey Bay National Marine Sanctuary (MBNMS), but outside of the MPWC designate zone. The operator was contacted and informed of the specific MBNMS regulatory language describing a MPWC. The operator admitted he was fully aware that he was in violation of the law.

- A joint outreach vessel patrol was conducted with the USCG to educate the boating community and recreational kayak users concerning the harassment of whales in the MBNMS. OLE has recently received several complaints of boaters and kayakers encroaching on a large pod of humpback whales feeding in the sanctuary.

International Cooperation

- WCD sworn personnel attended the Central America Fisheries meeting in Panama City, Panama sponsored by INTERPOL. The meeting included participants from Panama, Costa Rica, El Salvador, Guatemala, Nicaragua, Dominican Republic, Colombia, Peru, and Ecuador, which focused on how to address the IUU fishing taking place in international waters off of Central America. Other topics discussed included tools and methods available to identify IUU fishing activities and INTERPOL's role in providing assistance. WCD personnel provided training on evidence collection and documentation, decision making, case preparation, and developing and prioritizing goals to fisheries enforcement operations. They also provided guidance on topics such as conducting inspections of commercial fishing vessels, conducting complex investigations, and organizing town hall meetings with the commercial fishing community.



- In December of 2014, an eight-count indictment was filed against the owner of a Los Angeles furniture business for violations stemming from smuggling a variety of endangered marine wildlife from Mexico and shipping them to China, where they are considered a delicacy. Kam Wing Chan and Kaven Company, Inc., were charged with conspiracy, smuggling, and Lacey Act violations for smuggling abalone, sea cucumber, and totoaba from Mexico to San Diego. The indictment alleges that the company was used to import wildlife, valued at more than \$3 million, into the U.S. and then shipping it to companies owned by Chan's relatives in China. A single dried swim bladder from the totoaba, used for soup, can sell for between \$1,400 and \$4,000 in Mexico, and up to \$40,000 in Asia. Special agents from the WCD and the USFWS arrested Chan in the Los Angeles area and took him before a U.S. District Court Magistrate Judge for his initial appearance. The Magistrate Judge set bail at \$25,000 and ordered the defendant to surrender his passport and restricted his movement to California. The below link is to the Department of Justice press release.

<http://www.justice.gov/usao/cas/press/2015/cas15-0109-Chan.html>



"Totoaba Swim Bladders"



"Totoaba Macdonaldi"