

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

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



June 2017

**NOAA Fisheries Office of Law Enforcement
West Coast Enforcement Division
7600 Sand Point Way NE
Seattle, Washington 98115**

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



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The West Coast Enforcement Division

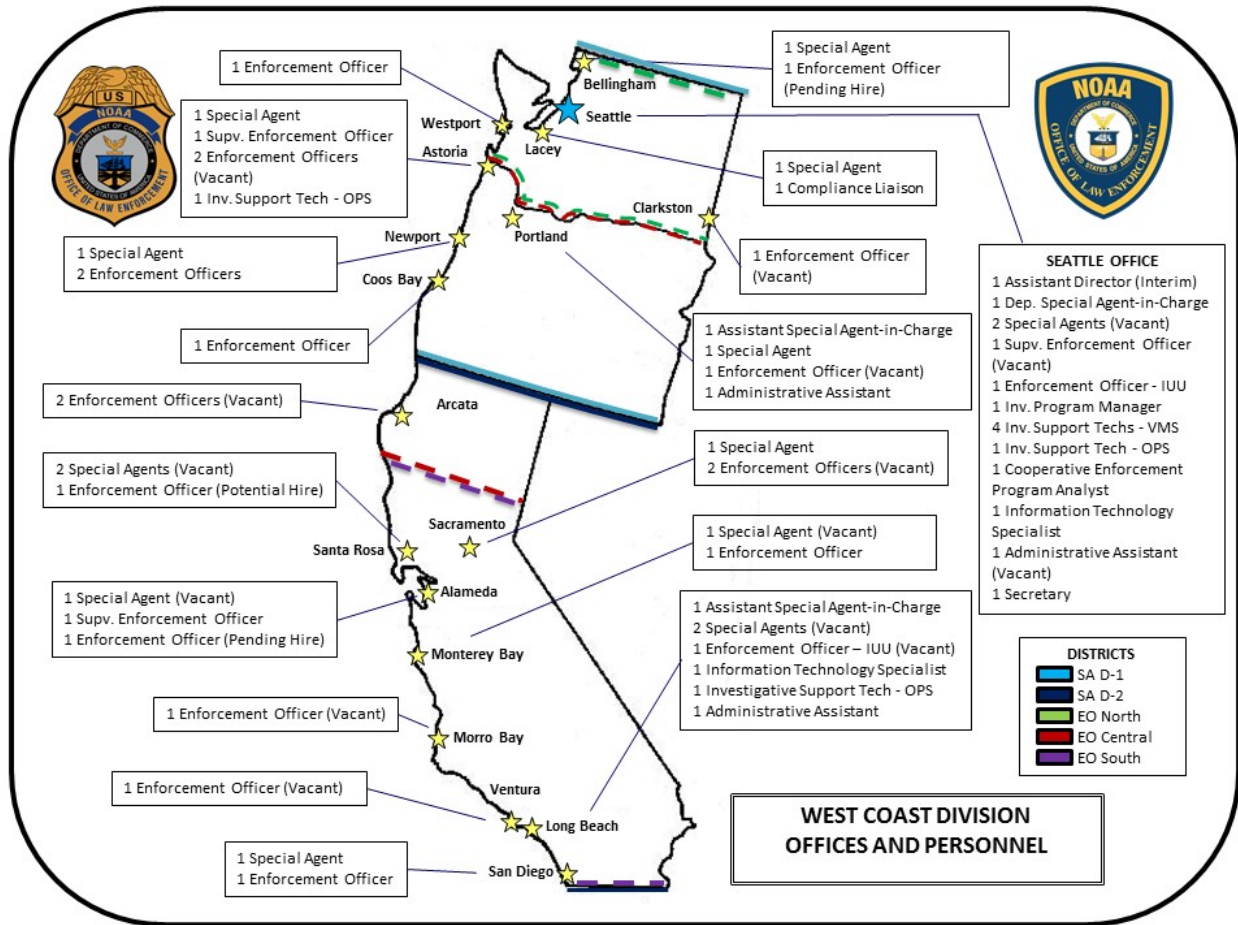
The West Coast Division (WCD) provides marine enforcement and compliance assistance for the west coast of the continental United States, primarily California, Oregon and Washington, but also includes Arizona, Colorado, Idaho, Montana, Nevada, North Dakota, South Dakota, Utah and Wyoming. Our staff includes 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 and the states of California and Arizona include 513 miles of international border with Mexico. There are 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 within the Exclusive Economic Zone (EEZ), and 339,375 square miles of land encompassing numerous rivers and tributaries feeding into the Pacific Ocean.

A new staffing plan that was implemented in 2016 recommends the WCD have a staff of 59 administrative and sworn personnel positioned throughout Washington, Oregon and California. It is important to remember the staffing plan is merely a recommendation and while OLE will strive to meet the staffing plan we must operate within the constraints of our annual budget. The plan divides the staff between three categories; Operational – which includes sworn staff (i.e. Special Agents, Enforcement Officers), Investigative Support – which includes operational support staff (i.e. Vessel Monitoring Technicians, Enforcement Technicians), and Mission Support – which includes administrative staff (i.e. secretary, administrative assistant).

The Operational staff has special agents (SA) positioned in two districts, each with a supervisory Assistant Special Agent-in-Charge (ASAC). District One covers Washington and Oregon, with a recommended staff of seven SA positions (two remain vacant). District Two covers California with a recommended staff of eight SA positions (6 remain vacant). It should be noted OLE recently opened and closed a national hiring announcement for SA that included one position in Washington and four positions in California. The announcement closed on May 26, 2017 and we will be going through the hiring process this summer. In May 2016 a SA from our Headquarters office in Silver Spring, MD voluntarily transferred to our Newport, OR field office.

The Operational staff includes enforcement officers (EO) positioned between three districts – North, Central and South. The plan calls for each District to have a Supervisory Enforcement Officer (SEO). Currently we only have the Central and South District SEO filled. The Central district SEO is supervising the personnel assigned to the North District. The plan calls for four EO to be assigned to the North District, eight assigned to the Central District, and nine assigned to the South District. WCD currently has five new EO's onboard (1 operational, 4 in training) and three EO currently going through the hiring process. Eleven EO positions remain vacant. The staffing plan recommends WCD open three new office locations in Clarkston, WA; Morro Bay, CA; and Ventura, CA. These are on hold pending ability to fill the positions.

This past year, the Assistant Director retired and the Supervisory Administrative Officer took a lateral assignment to another division, leaving the regional office in Seattle with two significant vacancies. Both positions have been recently advertised and we hope to have both positions filled by late summer or early fall of 2017.



Office of Law Enforcement - Cooperative Enforcement Program

Under the Federally-funded NOAA Cooperative Enforcement Program (CEP), OLE has ongoing formal Cooperative Enforcement Agreements (CEA) and Joint Enforcement Agreements (JEA) with all three West Coast States: 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) – Police. These agreements extend federal authority for state agencies to enforce specific federal laws and regulations as defined in specific agreed upon federal priorities within each agreement, including the enforcement of the Northern Pacific Halibut Act.

In addition to providing reimbursement for direct federal fisheries enforcement work performed by state officers, wardens, and troopers in support of federal fisheries enforcement priorities, the agreements also provide funding for state administrative overhead and direct purchases of large assets (i.e., boats, vehicles, etc.) as well as small or portable assets (i.e., radios, plotters, computers, thermal imaging, cameras, etc.) and services (maintenance of equipment and vessels).

Within the framework of each agreement, under targeted enforcement there are defined marine law enforcement, compliance assistance, and living resource management responsibilities under assorted specific federal *traditional* priorities that each agency is tasked with responsibility for – these typically include land-based services and at-sea services, and may include air services if available within the agency and if determined necessary. The 2016 agreements included a blend of traditional and new concept targeted (or *executable*) priorities. The traditional priorities operate the same as under prior agreements where each agency has federal priorities that share a pool of defined hours for each of the services (sea, land, and air). By having a pool of hours to draw from, our West Coast OLE and state partner leadership teams have flexibility on how much emphasis to apply towards specific traditional priorities based on trends, fisheries data, incidents, environments, ecosystems, and the living marine resources. California and Oregon both have Northern Pacific Halibut enforcement and management under traditional priorities, along with other assigned traditional priorities, however, Washington has adopted the Northern Pacific Halibut as one of their executable priorities. Executable priorities are defined and very specific, they have a set funding amount, services, and timeframes, with very specific goals; Washington also has traditional priorities. 2016 was the first year the agreements fell under the new concept, and was a learning period for OLE to assess how effective executable priorities are in providing focused enforcement.

These agreements foster a cooperative environment; producing a viable collaborative approach to federal and state living marine resources enforcement and management. There is consistent ongoing cooperative efforts between Washington Department of Fish & Wildlife (WDFW) – Police, Oregon State Police – Fish and Wildlife Division (OSP), California Department of Fish and Game – Law Enforcement Division (CDFW), National Oceanic and Atmospheric Administration, Office of Law Enforcement (OLE), and the United States Coast Guard (USCG) for the enforcement, preservation, and management of living marine resources. The USCG is an excellent federal partner, providing premier at-sea and air resources and willingly supporting state partner and federal operations. WDFW Officers, CDFW Wardens, and OSP Troopers ensure comprehensive protection and compliance through the monitoring of directed and

incidental commercial, recreational, and tribal fisheries. This is accomplished by conducting vessel boardings, monitoring off-loads, inspections of processors, wholesalers, dealers, markets, air and sea ports, and cold storage facilities, and through follow-up, surveillance, investigations, and collaborative operations inclusive of Halibut catch limits, quotas, size limits, and documentation inspection. The significant contributions of our West Coast Cooperative Enforcement Program Partners (CDFW, OSP, WDFW), and the USCG, formulate the foundation of coastal living marine resource protection and compliance.

Office of Law Enforcement – West Coast Division Investigations

Magnuson-Stevens Act

- Two separate investigations involving IFQ groundfish vessels concluded with both vessel owners/operators agreeing to pay civil fines of \$10,000 and \$6,000 respectively. The vessels fished in two different IFQ management areas during the same trip.
- The Washington Department of Fish and Wildlife identified improperly marked shipments of salmon from a fish processing and wholesale company to a fish market in Washington. The subject company said they did not understand how detailed the law required the labeling. The enforcement officer issued a Fix-it ticket for compliance, and follow-up inspection showed the issues had been resolved.
- An IFQ First Receiver failed to submit the required annual Economic Data Collection (ECD) documents for the past few years to the NMFS Fishery Resource Analysis and Monitoring (FRAM) Division. This is a requirement specified in the Magnuson Act regulations. NOAA OLE worked with the First Receiver to gain compliance by providing an extended deadline to submit the required forms.
- Two separate investigations were initiated upon referral from the West Coast Groundfish Observer Program, alleging that the crews failed to properly complete sorting before mixing their catch from a second haul. The investigations resulted in a COPPS closure and a compliance assistance.
- A Supervisory Enforcement Officer conducted a dockside boarding and offload monitor of a limited entry groundfish trawler delivering product to a processing plant. Permits, logbooks, identification and catch were inspected, but follow-on investigation of vessel's VMS track history revealed VMS was not active during the most recent fishing trip. Investigation resulted in a written warning.
- An Enforcement Officer conducted a dockside boarding and offload monitor of a limited entry groundfish trawler delivering product to a processing plant in Charleston, Oregon. Permits, logbooks, identification and catch were inspected. The GPS plotted was checked against the logbook entries. The federal observer on board reported no problems or issues. The F/V did not have the required Limited Entry Permit (LEP) on board as required. A Fix-It ticket was issued for the violation.
- An Enforcement Officer was contacted by a Coast Guard cutter in regard to a fishing vessel contacted in the EEZ. The vessel operator was found in possession of an undersized salmon. The gear deployed had 10 barbed hooks. The Coast Guard terminated the fishing trip due to safety violations and escorted the F/V back to port. OLE Enforcement Officers met the vessel at the boat dock. The undersized salmon was voluntarily abandoned. The vessel operator confirmed the Coast Guard report of using barbed hooks. A summary settlement was accepted in the amount of \$150.00 for the undersized salmon and \$450.00 for the use of 10 barbed hooks.
- The owner/operator of a fishing vessel self-reported a 185 lb. overage of halibut following the second commercial halibut season. A \$1,156.25 summary settlement was paid for the value of the overage.

- A fishing vessel was boarded by the USCG and referred to NOAA OLE for unlawfully caught, retained and landed groundfish without having a vessel monitoring system (VMS) installed. A second offense was added for fishing for and retaining albacore tuna without having a Highly Migratory Species (HMS) commercial fishing permit. The vessel owner and the hired operator were each issued a written warning for fishing without a VMS Unit, and a \$500.00 summary settlement for fishing without the HMS permit. The summary settlement was paid.

- An IFQ fishing vessel landed 2,381 pounds over their IFQ quota for IPHC Area 3A. A summary settlement for the value of the overage, \$17,926.79, was paid.

- An inspection of a commercial salmon landing resulted in one undersize fish. The vessel owner/operator paid a \$150.00 summary settlement.

- A fishing guide paid a \$450.00 summary settlement for retention of an ESA-listed Chinook salmon with the adipose fin attached.

- An investigation into observer harassment and intimidation resulted in a Notice of Violation and Assessment (NOVA) issued from the NOAA General Counsel Enforcement Section (GCES) to the vessel owner and operator. The NOVA was originally issued for \$6000.00, but resulted in a reduced penalty of \$5,400.00. The NOVA has been paid in full.

- Numerous potential violations related to VMS and HMS were investigated and resulted in 22 written warnings issued under the Magnuson-Stevens Act.

Marine Mammal Protection Act

- A vessel operator admitted to motor-sailing through a pod of orcas in the San Juan Islands. A \$300 summary settlement was paid.

- NOAA GCES issued written warnings to two companies for importing yellowfin tuna product into the U.S. that was subject to embargo because it was harvested in the Eastern Tropical Pacific Ocean by purse seine vessels that were registered to nations identified by NOAA as embargoed countries.

- A recreational vessel was observed pursuing two members of an orca pod at a very close distance in the San Juan Islands, WA. The vessel operator was issued a written warning for the violation.

Endangered Species Act

- Billy J. SWANN, owner and operator of Swanny's Fishing was sentenced on Tuesday, March 7, 2017, in the Western District of Washington Federal Court for violating the Endangered Species Act. He was sentenced to pay a \$7,500 fine, serve (1) year of probation, perform (40) hours of community service, publish an article in a prominent fishing magazine explaining what he did, and pay a special assessment fee to the court in the amount of \$25.00. SWANN directed two clients on a fishing trip to retain two ESA-threatened Lower Columbia River Coho salmon. Later in the trip, SWANN removed the adipose fins to conceal the true identity of the salmon. SWANN is a well-known fishing guide in the Northwest, who has guided in Alaska, Washington, Oregon, and Idaho.

- An unscreened water pump was identified in the lower Smith River area of Smith River, CA, which is critical habitat for endangered Coho salmon. It was determined that the pump provides water to a large cattle ranch at that location, and the ranch manager was contacted to ensure compliance with screening requirements. The subject is working with Habitat Conservation Division staff to correct the problem.
- A Joint investigation into habitat destruction was concluded when the Washington Department of Ecology issued a \$4,000 penalty to a landowner. The landowner is alleged to have discharged a large amount of sediment from a pond into Bear Creek, located near Bellingham, Washington. Bear Creek contains ESA-threatened steelhead trout.
- Two enforcement officers interviewed a subject who had possession of an illegally harvested vertebrae from an ESA-listed whale that washed up on shore in Brookings, OR in 2013. The subject voluntarily abandoned the whale bone.
- NOAA OLE received a referral from Oregon State Police (OSP) who detained a suspect who was in possession of an ESA-listed wild Coho salmon. The subject was interviewed and subsequently paid a \$450 summary settlement.
- A sportfish vessel was boarded at the Charleston Marina boat dock. One subject on board had retained one wild Coho salmon. The subject paid a \$450 summary settlement.
- The West Coast Groundfish Observer Program (WCGOP) reported that a deckhand was discarding baskets of unknown species of fish prior to the observer sampling it. The owner/operator of the vessel paid a \$1,000 summary settlement.
- A written warning was issued to a logging business for allowing run-off that included pollutants to enter the Lewis and Clark River in Oregon.

National Marine Sanctuaries Act

- The sinking of a vessel inside the Olympic Coast National Marine Sanctuary was concluded with issuance of a \$9,000 Notice of Violation and Assessment of Administrative Penalty. A vessel operator and owner were issued this assessment for causing the 2012 sinking of a second vessel, through collision, in the sanctuary off the coast of Washington. The parties agreed to and paid \$8,100 in the Settlement Agreement.
- NOAA GCES issued a \$6,000 NOVA to the owner/operator of a sailing vessel for discharging thousands of metal pellets and other metal debris from the keel of the vessel after running aground within the Monterey Bay NMS near Piedra Blancas, CA. The sailboat operator settled for a fine of \$4,500 and has paid in full.
- Staff of the Gulf of Farallones National Marine Sanctuary (GFNMS) and National Park Service completed a final survey of non-permitted moorings in Tomales Bay, Marin County, CA. The survey was done to verify the existing locations of unpermitted moorings previously tagged for removal. The

moorings were removed from the bay or relocated outside of the eelgrass critical habitat zone during a seizure operation led by OLE, who directed the efforts of a government contractor hired to lend expertise and assisted in the seizure and/or removal of the moorings.

- A written warning was issued to an individual for operating a motorized personal watercraft (MPWC) outside of the authorized MPWC designated zone within the Monterey Bay National Marine Sanctuary.

Lacey Act

- A San Diego individual pled guilty in San Diego federal court to one misdemeanor count of knowingly importing a commercial quantity of *fuscus* sea cucumber into the U.S. without a permit, in violation of 16 U.S.C. 1538(d)(1) and 16 U.S.C 1540(b). In October 2014 the individual crossed the border at the San Ysidro POE with 61 pounds of *fuscus* sea cucumber, a CITES Appendix III species which was concealed in the vehicle and not declared. Additional investigations have been developed as a result of this case.

- A WCD OLE agent assisted with an interview in a U.S. Fish and Wildlife investigation involving an individual who smuggled 71 pounds of *fuscus* sea cucumber through the San Ysidro Port of Entry in June 2016. The individual pled guilty in San Diego federal court to one count of smuggling and was sentenced to pay \$9,000 restitution.

- A Delta Air Cargo employee notified a NOAA OLE Special Agent regarding a trans-shipment thought to contain shark fins. Inspection revealed 27 out of 41 sacks (approx. 695 lbs.) labeled as dried fish maw in fact contained dried shark fins. The shark fins were seized and entered as evidence, none of which were identified as CITES Appendix II-listed or ESA-listed. The claimants (the shipper, the import company, and the issuing carrier's agent) forfeited the product to the United States.

International Cooperation

- Two defendants were sentenced in San Diego federal court for their role in a totoaba swim bladder smuggling operation which took place in October 2014. One defendant was sentenced to two years' probation, pay \$100 penalty assessment, and restitution to Mexico in the amount of \$6,000 (\$250/month). The second defendant was sentenced to five years' probation, pay \$100 penalty assessment, and restitution to Mexico in the amount of \$15,000 (\$250/month). A WCD special agent testified before a San Diego federal grand jury which returned a five-count indictment (two smuggling, two Lacey Act and one conspiracy) against an individual living in the Los Angeles, CA area for his participation in the smuggling of endangered totoaba swim bladders into the U.S. from Mexico. The following day, NOAA, FWS, and HSI agents served an arrest warrant on the individual at his home in Los Angeles. He was taken into custody without any incident and booked into the Marshall Service holding facility in downtown Los Angeles. He made his initial appearance later that day before a Magistrate Judge and was given \$50,000 bond, and must remain in the Central or Southern District of CA until his next court date in San Diego federal court scheduled for mid-January. This is the fourth target arrested in this two-year investigation. Furthermore, the agent served a grand jury subpoena to T-Mobile for cell phone records pertaining to an additional target identified in the investigation. The individuals arranged

for and paid drivers on two separate trips to transport 12 protected totoaba swim bladders from Mexico to Los Angeles and one of the defendants took possession of the load vehicle after the second trip from Mexico. To date, the investigation has resulted in the arrest of four individuals, all of which have pled guilty and been sentenced for their role in the smuggling operation.

- Enforcement Officers participated in a joint international operation with USFWS, CDFW, WDFW and OSP-DFW to collect information on possible illegal activity surrounding the Chinese New Year. Businesses and points of entry in Seattle, Portland, San Francisco and Los Angeles were inspected to better define illegal trafficking of totoaba swim bladders, abalone, sea cucumbers and shark fins. Several state marine resource violations were encountered resulting in several state citations, one written warning, and several verbal warnings being issued and undersized and short crab voluntarily abandoned. Additional inspections were conducted by U.S. Fish and Wildlife Inspectors at the SEATAC Airport and by OLE at additional businesses in the Seattle area. Staff continue to process and analyze information obtained from the more than 100 inspections focused on defining illegal trafficking.

- A five-year joint investigation involving NOAA OLE, FWS and HIS resulted in a San Diego federal grand jury returning a 26-count indictment against a seafood business and its principle owner based in Tucson, Arizona. Between 2010 and 2013 the business imported approximately 900,000 pounds (\$17 million) of sea cucumber into the U.S. through the Otay Mesa Commercial POE in San Diego. The Customs entry documents submitted with the sea cucumber imports included Mexican invoices from a nonexistent address which falsely understated both the price and weight of the sea cucumber. Through the investigation the company provided additional invoices from their suppliers in Mexico which did not contain information to track the product back to its lawful origin, as required by Mexican fisheries law. The owner will be summoned to appear for the post-indictment arraignment.