

Enforcement Priorities

Comment No.

1



Enforcement Priorities <enforcementpriorities@noaa.gov>

Comment on enforcement priorities

1 message

Thu, Nov 10, 2011 at 2:19 PM

[REDACTED]
To: EnforcementPriorities@noaa.gov

I notice in reading through the links given, that NOAA's priorities are entirely about investigating and prosecuting fishermen and processors and they say nothing about improving the accountability and professionalism of their own law enforcement staff.

Dr Damon E. Cummings

[REDACTED]
[REDACTED] MA [REDACTED]

Comment # 1

Enforcement Priorities

Comment No.

2



Enforcement Priorities <enforcementpriorities@noaa.gov>

Comment on Draft NOAA Enforcement Priorities

1 message

Steve Beber [REDACTED]
To: EnforcementPriorities@noaa.gov

Fri, Nov 11, 2011 at 11:00 AM

I believe that all of the priorities stated in the draft document can be supported by including a statement that NOAA will work with federal and state agencies to promote the consumption of locally caught fresh water fish. While the management of fresh water fish stocks is not within the specific mandate of NOAA's mission and not specifically an enforcement issue, any replacement of the consumption of salt water species would reduce the burden placed on those stocks. Salt water fisheries would become more sustainable and reduced demand would allow enforcement to be more targeted and cost effective.

Fresh water fisheries that lie solely within our boundaries can be managed without international concerns and state agencies have a long history of success. The Great Lakes fishery also has a long history of successful management in cooperation with Canada. Increased utilization of fresh water fish produced within the United States directly benefits our economy. The logistical tail of bringing fresh water fish to many markets is shorter than that for ocean fisheries and provides direct environmental benefits.

I believe that any dollars spent, even enforcement dollars, promoting the consumption of fresh water fish at the expense of demand for salt water species will provide a significant return on investment.

Note that I have no affiliation with any fishing or related industry or agency. I do not even fish myself, but I do exclusively purchase fresh water fish.

Steven Beber
[REDACTED]
[REDACTED], MN [REDACTED]

Comment # 2

Enforcement Priorities

Comment No.

3



Enforcement Priorities <enforcementpriorities@noaa.gov>

Enforcement goals

1 message

J Michael Beard [REDACTED]

Sat, Nov 12, 2011 at 2:32 PM

Reply-To: [REDACTED]

To: EnforcementPriorities@noaa.gov

Dear Sir or Madame;

First and foremost, I believe it is crucial to challenge the state law passed by Louisiana which prohibits enforcement of the Federal law on TED (turtle escape devices) by any law enforcement in Louisiana. This statute is a slap in the face to Federal regulation and oversight of our national resources. As follow up to challenging and removing this law from the books, enforce the federal statute requiring the use of TED!! This is a key precedent to establish, and an important wild life conservation goal. Thank you for your attention in this matter. Yours, J M Beard

Comment # 3

Enforcement Priorities

Comment No.

4



Enforcement Priorities <enforcementpriorities@noaa.gov>

Draft NOAA Enforcement Priorities

1 message

Lisamarie Carrubba [redacted]
Reply-To: [redacted]
To: EnforcementPriorities@noaa.gov

Mon, Nov 14, 2011 at 1:02 PM

I have reviewed the draft NOAA enforcement priorities document and have the following comment. Given that we already have two listed coral species and may be listed 7 additional species in the Atlantic, including the Caribbean, believe that the priorities related to the protection of listed species and their habitat cannot be focused only on sanctuaries. There are numerous areas within the U.S. Caribbean where there are more listed corals than in Florida and unauthorized take of these corals occurs regularly due to unauthorized development, boat groundings, etc. There are also areas, such as Culebra, that NMFS recognizes as very important to listed species such as sea turtles, where individuals have established businesses geared toward feeding sea turtle to attract tourists. Therefore, the protection of these species should not be limited to areas where NOAA has a sanctuary or focused on fishery enforcement only in the U.S. Caribbean due to threats from coastal development, boating, and some tourist businesses.

Thank you for the opportunity to provide comments on the document.

Dr. Lisamarie Carrubba

[redacted]
[redacted] PR [redacted]
[redacted]

Comment # 4

Enforcement Priorities

Comment No.

5



Enforcement Priorities <enforcementpriorities@noaa.gov>

Some Ideas

1 message

Nathan Gagnon

Thu, Nov 17, 2011 at 11:35 AM

To: EnforcementPriorities@noaa.gov

NOAA Enforcement:

I am hoping that the following comments could be helpful. I don't know much as an accountant, but I am interested in the area of ecosystems and it's good to preserve and protect them.

Should we prioritize our enforcement before an event occurs or after it occurs? Do we craft regulations that are proactive or responsive? Avoiding problems that become irreversible is a great idea. Avoiding invasive species and chemical spills are great in terms of reducing unnecessary damage to ecosystems. The only downside to proactive regulation (or proactive management once an event occurs) are the unanticipated consequences (success of the ecosystem, health of human health & food sustainability, and financial ramifications). Being able to help make sure these wonderful people are paid makes my job really special.

However, there are numerous downsides. The first downside is that our impact might not have the intended consequences (i.e. shipwrecks actually can have a helpful affect on (or at least be a lure for) the ecosystem. In contrast, trying to put out wild fires have been very harmful as many species rely on fires to survive. The species targeted may be either more or less severely affected than expected. Human needs may become extensive. The regulations may be way too onerous for the fisherman to do the job. The financial consequences might be significant. However, the financial consequences of not controlling fishing can also be damaging as less fish species remain available. Sometimes, a 2 inch fish is very important and is a very essential part of the ecosystem. Other times, it isn't relied on as a food source by other predators. The costs of regulation are very important and there are advantages to both taking a proactive damage and assessing damage after the fact and coming up with a plan to fix it (and assessing any necessary fines).

The most important factor is for our oceans to have life that is thriving and a vibrant fishing economy that is teeming with many fish species giving us many choices about what to eat. Since there is inevitable pollution (both natural and man-made), it is vital that we also manage it and come up with solutions that lead to fewer species becoming extinct and avoiding becoming critically endangered where it is very difficult to bring it back to life.

Hope this helps.

Comment # 5

Nathan J. Gagnon



Find Joy in the Little Things in Life

Enforcement Priorities

Comment No.

6

To: EnforcementPriorities@noaa.gov

Subject: public input for enforcement reform

Hello

Before any reform can be made a little house cleaning would be in order. The main problem in the northeast was the 'incentivized enforcement' which resulted in the now famous Zinser report. The attempts to whitewash the criminal actions of the entire Gloucester legal staff was adding gasoline to the fire. The attempts of Lois Shiffer to publicly state that we should all look ahead instead of facing the problems that her very own attorney general was about to make public was the obvious 'we can do anything we want and get away with it' mentality that still prevails in the NMFS. According to her dossier, Ms. Shiffer is a law school professor...heaven help us with the next batch of young lawyers if they are being taught evasive action of criminal activities on such a grand scale. I can't help but wonder what Ms. Shiffer's cut of the 'cash awards for successful prosecutions' was if the lawyers under her were receiving those funds through the corrupt judicial process administered by the USCG judges. How high up do the 'cash awards' go? Public record tells us that the USCG judges received a full 60% of their salaries from the fines they issued. Thankfully the USCG judges were removed from their duties as should be the obvious perpetrators of criminal activity...Dale 'the shredder' Jones and 'second story man' Chucky Juliand. They are still there, tucked away in a cozy corner soaking up taxpayer dollars as if nothing happened. Chucky Boy was right.. 'we can do anything we want and are responsible to no one'. The constitution be damned! To get to the point..

Shiffer, Jones and Juliand should be unceremoniously stricken from the payroll (read no pension or golden parachutes) and they should then consider themselves lucky that they are not being criminally prosecuted for their actions (or that may still be an option).

Secretary Locke made a cavalier attempt to save the sinking ship but when he realized that the scandal was deeper he started to look for back doors as a way out of returning the fine money. It is obvious that the amount of fine monies that should be returned (with damages) isn't there and there is no attempt to find out where it went! Locke got out of Dodge just in time. So where is the beef? The missing money (\$40,000,000 in just the past five years, not to mention the twenty five years that should be looked at) has mysteriously been ignored and attention diverted to 'catch shares' ...another fiasco. Apparently Ms. Shiffer connections with the U.S. Attorney General has paid off..they have stated that they aren't even interested. Let's take care of our own and screw the fishermen and taxpayers. Your agency even defies Senators and Congressmen...refusing to deliver requested information, walking out of meetings, stonewalling State Attorney Generals.. etc. The road ahead is clear.

The NMFS should act as a strong advisory agency and try to coordinate and encourage STATE enforcement. All illegal fishing activity should be prosecuted at the state level and tried by STATE civil judges and STATE prosecutors and the fine money should go into the STATE general treasury. All boarding and NOVAS issued in federal waters should be referred to the vessels home state for prosecution.

Best Regards.....Martin Stillufsen, [REDACTED] New Jersey

Comment # 6

Enforcement Priorities

Comment No.

7



Enforcement Priorities <enforcementpriorities@noaa.gov>

whale-watch vessel enforcement

1 message

Fri, Nov 18, 2011 at 11:49 AM

[REDACTED]
To: EnforcementPriorities@noaa.gov

Hello,

Having personally worked on two different whale-watching vessels in the past four years as a deckhand, I sadly witnessed the grotesque, institutionalized corruption from this industry on a regular basis- from parking their vessels purposely in the oncoming Orcas paths, breaking the 100 & 200 yard minimum distance regulations, dumping their onboard sewage into the Straits, lying to customers about how they are locating the pods while harassing the Southern Residents as they are allowed to continue offering 'guaranteed sightings on a daily basis while stalking this Endangered Species with increasingly longer hours per day and an increased number of vessels surrounding the pods daily.

It is absolutely heart-wrenching observing the absolute chaos the whale watch boats cause around the Orca pods. When will NOAA stop the whale watch industry from continuing to control the fate of these poor Endangered animals? Enforcement of current regulations *must* become a priority. Creating stricter guidelines must soon follow, or soon there will be no whales left in our Salish Seas to protect.

Nadja Baker
[REDACTED]

Comment # 7

Enforcement Priorities

Comment No.

8



Enforcement Priorities <enforcementpriorities@noaa.gov>

call for coments

1 message

Sun, Nov 20, 2011 at 2:52 AM

To: EnforcementPriorities@noaa.gov

As a private citizen I feel compelled to voice my concern. And as a resident of an unincorporated county in the Midwest I am equally compelled to voice my concern.

In this case unincorporated means lack of federal and state services. It may also mean NOAA doesn't understand our local ecosystem. Why should NOAA care about an area with 13,000 acres of water and one small town? I hope to answer these questions.

1. The Farm chemical run-off affects the quality of the entire aquifer that is under most of the county and feeds wells that provide water to humans, animals, and crops. It also affects the river that feeds the largest inland wetlands refuge in America. The meat (deer, squirrel, wild turkey) and the fish we catch is tainted. We really don't know how unsafe it really is. Compound this with the deep channel shipping lane and tour boats with the sludge and garbage on one of the largest river systems in America.

2. Early warning system in this area is critical. Unlike other towns of its very diminutive size most do not have a major shipping port, a marina or medical flights to seven hospitals in two large cities that are separated by 100 miles. One of those hospitals has the only critical care tertiary unit for children in mid-state. The two other hospitals that offer this critical care are located 400 miles apart. This area is also rapidly developing a very busy commercial highway that provides easy access to eight state, federal and Interstate routes.

I am equally critical of media and state agencies who can't be bothered with facts until the next crisis. Our truckers, pilots and captains deserve early warnings just as much as they do in New England or Dallas. No size or stature should be considered in decisions that affect life and limb as much as NOAA.

Thank you,

Pj Little

Comment # 8

Enforcement Priorities

Comment No.

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Enforcement Priorities <enforcementpriorities@noaa.gov>

(no subject)

1 message

John&MarthaMcLaughlin [REDACTED]
To: EnforcementPriorities@noaa.gov

Mon, Nov 21, 2011 at 11:12 AM

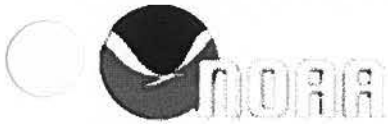
Yes your necessary to yourself. I gave up boating years ago cause of gov harrassement. Why don't yall get a real job, ps just leave the man with the big tuna alone

Comment # 9

Enforcement Priorities

Comment No.

10



Enforcement Priorities <enforcementpriorities@noaa.gov>

Comments for Draft NOAA Enforcement Priorities

1 message

Mon, Nov 21, 2011 at 3:57 PM

To: EnforcementPriorities@noaa.gov

To Whom it May Concern,

As a fisherman, boat owner, and diver residing in southern California, I feel I need to voice my concern with NOAA's statement of "Regional Priorities Supporting Recovered and Healthy Marine and Coastal Species and Healthy Habitats". Specifically, NOAA's draft states as a priority in the Northwest/Southwest region "Unlawful interactions with Orca whales and harassment or killing of sea lions". While I take no issue with the first element regarding Orca whales, as the southern resident population is recognized as endangered, I do find the priority of reducing California Sea Lion harassment to be completely unnecessary as a "priority".

The population of California Sea Lions is one of the highest densities of marine mammal populations in the United States. While the species is offered protections Marine Mammal Protection Act, it is inevitable (pending properly conducted stock assessment reports) that the California Sea Lion has reached it's Optimum Sustainable Population, stated as a goal in the Act. At this juncture it is ridiculous for NOAA to consider "compliance assistance" or increased enforcement for harassment offenses a priority with this species. The California Sea Lion has shown itself in recent years to be entirely a nuisance for many ocean and even freshwater user groups, from fisherman to boat owners to waterside facility managers. NOAA should not make harassment or even mortality cases involving California Sea Lions a priority. The Marine Mammal Protection Act has achieved the mismanagement of the California Sea Lion population as it has greatly increased, threatening coastal ecosystems, including endangered species, with its overpopulation. Please consider my strong feeling that species more deserving of protections (such as those listed as Threatened or Endangered under ESA) be given priority, instead of the shamefully abundant California Sea Lion.

Although it was not stated in the draft, nearly everything said above could also apply to the California stock of Harbor Seals. Both Harbor Seals and California Sea Lion populations should not be a priority for NOAA Law Enforcement due to these species' great abundance and density in areas shared with humans.

Please submit this comment as anonymous.

Thank you.

Comment # 10

Enforcement Priorities

Comment No.

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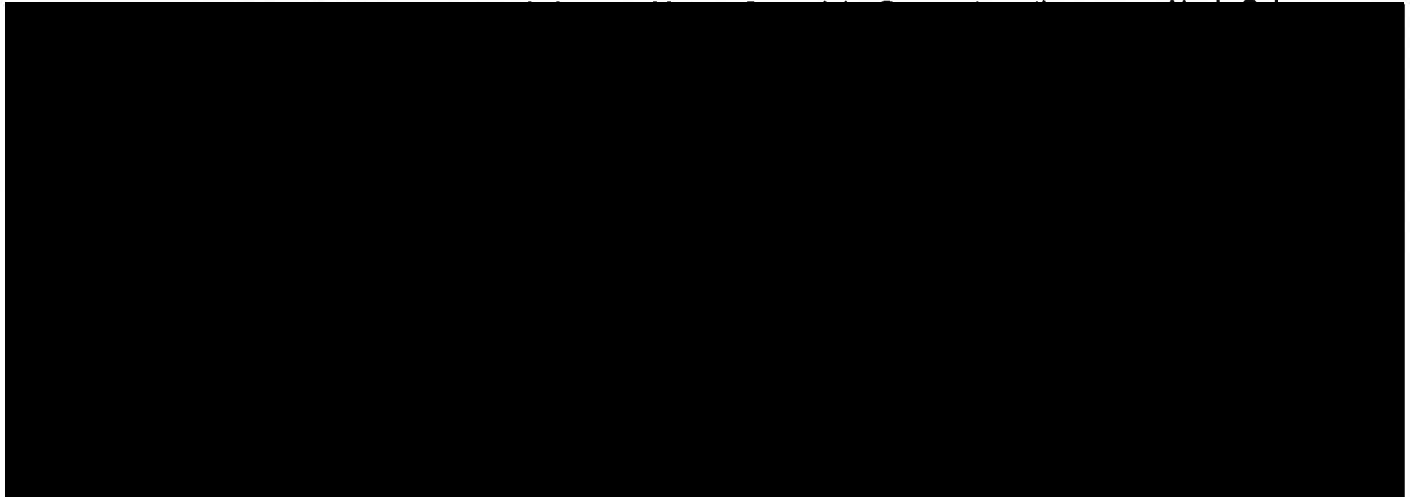
Enforcement Priorities <enforcementpriorities@noaa.gov>

New Bedford fisherman forced to give up 800-pound tuna

1 message

Sam Snyder PhD [REDACTED]
To: EnforcementPriorities@noaa.gov

Mon, Nov 21, 2011 at 7:08 PM



To whom it may concern,

Even though the tuna was accidentally caught in a net and not a rod and reel, it was several hours before the tuna boat knew it had snared the fish. By then it was already dead. Confiscating the tuna at that point was idiotic. You are operating for the Great Obozo as some tyrannical authority of the seas. Just remember what happened to another tyrant named King George III, he lost a rebellion to the people of America.

If you don't stop trying to micromanage everything we do in this country, the people will again rise up to toss your bureaucratic collective asses out!!! Just remember we as Americans have endowed by their Creator with certain unalienable rights to life, liberty, and the pursuit of happiness. These are rights that the scumbags like you in the government cannot pass laws to take from us. These freedoms are not subject to Obozo's tyranny.

Shame on you,

Comment # 11

>Sam Snyder PhD

Enforcement Priorities

Comment No.

12



Enforcement Priorities <enforcementpriorities@noaa.gov>

Tuna fisheries enforcement

1 message

Kevin Anderson [REDACTED]
To: EnforcementPriorities@noaa.gov

Wed, Nov 23, 2011 at 10:47 AM

I am writing to comment on the anticipated changes in enforcement activities and am motivated to do so by the shortsighted and misguided approach taken with the confiscation of the Whitefin Tuna caught by Carlos Rafael's boat recently. As you are aware, he purchased a tuna permit for his boat which engaged in netting fish near the bottom of the ocean. He did so in anticipation of an accidental catch such as the one that ultimately occurred. When he learned of the catch he notified who he needed to notify to assure that the fish would be processed for sale in an appropriate and timely manner. At the dock he also reported the catch to your agent who then confiscated the valuable fish citing a violation in that the catch did not result from the use of a line and hook. A smaller fish recently sold in Japan for a sum in excess of \$300,000.00. Your agency indicated that it will keep proceeds from the sale of the illegally obtained fish. As an American, as a sportsman who himself purchases licenses and permits for the harvest of creatures governed by regulation, and as a citizen who is well aware of the rampant violations that occur among populations who could care less about attempting to obtain permits and compliance, I am embarrassed by this action and believe that the NOAA should be as well. There was no indication in the available reporting that you preserved or maximized the fish's value. Regardless, I suggest that you withdraw the warning issued and apologize to Mr. Rafael and give him all of the money in a very public way. With regard to further regulatory and enforcement action I suggest that you can keep busy chasing criminals rather than picking on businessmen who own permits who are in the midst of celebrating a fortuitous and accidental harvest.

Comment # 12

Enforcement Priorities

Comment No.

13



Enforcement Priorities <enforcementpriorities@noaa.gov>

Draft NOAA Enforcement Priorities

1 message

Sat, Dec 3, 2011 at 1:15 PM

To: EnforcementPriorities@noaa.gov

I live far from the oceans but I do enjoy the few visits that I make to the oceans, and I support the two major priorities of sustainable fisheries and protection of endangered and threatened species. I urge that we also protect migration routes for our many species by providing good information when migrations are taking place, and protecting those species generally so that their respective migrations for breeding especially are successful. There must be regional protections that limit vessel speed where manatees, dolphins, sea turtles, and whales feed, breed, and play.

With respect to sustainable fisheries, there needs to be much closer observation of fishing boats to ensure they free bycatch species and actively protect turtles and dolphins. I am most concerned with foreign boats that do not respect the sustainable fisheries and the horrific practice of shark finning. I urge much steeper fines and even equipment confiscation of those fishing boats that refuse to respect sustainable fisheries and fail to protect bycatch species from harm. I also hope that we encourage these fishing boats to share more information about the species and weather they observe and the general health of our oceans. Modern sonar equipment makes it much harder for species to hide from fishing boats and we should be encouraging sustainable fisheries by limiting fishing seasons when populations reach low limits. To that end we should be helping fishing boats improve their image and protect the oceans by perhaps developing a program for tourists/observers to ride along. I know the margins for fish are not always enough to pay the full year expenses of a fishing boat but hardy tourists would pay for the trip and possibly improve the dialogue between fishermen who are trying to make a living and those who want sustainable oceans.

With respect to endangered and threatened species, the overfishing and pollution in some areas has put entire regions at risk. NOAA has a great deal of data, but we need to establish how to use that data to better protect all species. Sea lions were identified as a major player in salmon loss in a California fishery, and were said to be non-native to that specific area. But were they possibly forced to move since their native area fishery was depleted beyond sustainable levels? I encourage more thorough data collection by tapping into our fishing fleets as they journey, and think about the data we need to make better decisions. Can we encourage our fishing fleets to collect data of higher quality that can provide actionable decisions across regions?

Thank you for the opportunity to comment, and for the vast information that I have access to with respect to weather, ocean currents, and fisheries.

Steve Work, taxpayer and reliable voter interested in sustainable oceans with wide protection for all species

Comment # 13

Enforcement Priorities

Comment No.

14

WEST COAST SEAFOOD PROCESSORS ASSOCIATION

1618 SW First Avenue

Suite 318

Portland, OR 97201

503-227-5076

seafood@integra.net

December 12, 2011

Acting Deputy Director Tracy Dunn
NOAA Office of Law Enforcement
8484 Georgia Ave., Suite 415
Silver Spring, MD 20910

Dear Deputy Director Dunn:

On behalf of the West Coast Seafood Processors Association (WCSPA), I am submitting the following comments regarding the Office of Law Enforcement's (OLE) Draft Enforcement Priorities. WCSPA represents shore-based seafood processors and associated businesses in Washington, Oregon, and California and thus has frequent contact with OLE.

We recognize that the draft priorities are national in scope and cannot effectively accommodate all regional differences. That said, we believe that OLE could benefit from adopting policies used in the northwest and southwest regions which have resulted in an excellent relationship between OLE and marine resource users. By including these regional policies and approaches in a set of national priorities, other OLE regions could see an improvement in compliance.

One key element of the successful northwest and southwest programs is the close working relationship between OLE and state enforcement agencies. While OLE has the investigative expertise state agencies, working in partnership, generally serve as the day to day enforcement officers in local communities. This partnership brings fiscal efficiencies, provides OLE with a broader opportunity for enforcement, and provides resource users with a familiar "face" that they can deal with on enforcement issues. We strongly recommend that the priorities document clearly reflect the need for a strong partnership between OLE and state enforcement agencies.

Similarly, it is important to recognize the role of resource users in achieving a higher level of compliance. The concept of community based policing, which has been shown to work well in urban settings, also works when properly adapted to the marine and coastal environment. The vast majority of marine resource users understand the importance of compliance and, if provided the opportunity and incentive, will assist in achieving that compliance. We recommend that the priorities include specific references to community education and partnerships.

Finally, in those fisheries which have transitioned to catch shares or other limited access privilege programs OLE needs to recognize that enforcement methodology will be changing as the fisheries management system changes. Where there is personal accountability built into a management system, OLE should be supportive of simplification of regulations. Extensive and complex rules on gear construction and use or myriad boundary lines in the ocean should not be needed in these cases and OLE should emphasize maintaining the overall integrity of the management system.

Comment # 14

We hope these comments are helpful in designing the OLE enforcement priorities. If I can provide any additional information, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Rod Moore". The signature is written in a cursive style with a large, looping initial "R".

Rod Moore
Executive Director

Comment # 14

Enforcement Priorities

Comment No.

15

Draft NOAA Enforcement Priorities

November 8,
2011

NOAA's Mission, Vision, Long-Term Goal, and Objectives

The mission of the National Oceanic and Atmospheric Administration (NOAA) is to understand and predict changes in climate, weather, oceans, and coasts; to share that knowledge and information with others; and to conserve and manage coastal and marine ecosystems and resources. Meeting this mission requires not only state-of-the-art science and management programs, but also a fair, effective, and comprehensive compliance and enforcement programs. NOAA is establishing priorities to guide its enforcement programs in support of NOAA's Mission, Vision, Long Term Goals, and National Marine Fisheries Service objectives.

NOAA's enforcement programs operate primarily under the following provisions of the Next Generation Strategic Plan:

NOAA's Mission: Science, Service, and Stewardship

*To conserve and manage coastal and marine ecosystems and resources
NOAA Enforcement's mission is to protect coastal and marine ecosystems and
resources*

NOAA's Vision: Resilient Ecosystems, Communities, and Economies

*Healthy ecosystems, communities, and economies that are resilient in the face of
change.*

NOAA's Long Term Goal: Healthy Oceans

*Marine fisheries, habitats, and biodiversity are sustained within healthy and
productive ecosystems [this is not necessarily true; climax forests have almost no
net production, whereas tidal marshes, which are basically wiped away every year,
have the highest per acre production with a handful of grass species]*

NOAA and Fisheries Objectives

*Recovered and healthy marine and coastal species
Sustainable fisheries and safe seafood for healthy populations and vibrant
communities*

Comment # 15

Background on the FY 2012 Priority-Setting Process

During the fall of 2010 the NOAA Fisheries Office of Law Enforcement and the NOAA Office of the General Counsel for Enforcement and Litigation solicited recommendations from the fishery management councils [except for a handful of people at the summit below, FMC's were not consulted; the NEFMC enforcement committee has waited over a year for this opportunity], interstate fishery commissions, interested stakeholders representing public, private, and non-governmental organizations, and other entities within NOAA Fisheries on setting annual priorities at the national and regional level.

This solicitation for recommendations developed following the summer of 2010 NOAA National Enforcement Summit that brought together more than 60 stakeholders from the commercial and recreational fishing industries, non-governmental organizations, and state and federal enforcement officials to focus on how NOAA can better manage marine resources through fair, consistent, and transparent enforcement of natural resource laws.

NOAA was particularly interested in recommendations from all interested parties on how the agency can develop national and regional priorities that reflect:

- The potential effect and/or threat of non-compliance to the resource (high, medium, low);
- The status of the resource (e.g., endangered, threatened, depleted, overfished, overfishing occurring, etc.);
- Efforts to **measure and** improve compliance;
- Opportunities for deterrence [the VMS office in Gloucester is a good example of this, in that they communicate with potential violators to prevent infractions];
- Support for catch share programs;
- How enforcement allocates resources for requirements outside specific priorities;
- Best use of available resources

Summary of Stakeholder Recommendations Received

The recommendations received from stakeholders generally fell into the two broad categories:

- *Sustainable fisheries (Magnuson-Stevens Act and associated statutes)*
- *Protected resources and places (Endangered Species Act, Marine Mammal Protection Act, and National Marine Sanctuaries Act)*

Recommendations related to sustainable fisheries included:

- *Protecting overfished stocks and stocks where overfishing is occurring*
- *Protecting recovered stocks maybe just as, or more, important; as an example for overfished stock management*
- *Improving economic vitality [how is 'vitality' measured? Specific economic measures may be more useful] for fisheries community*
- *Leveling the playing field through compliance assistance and effective enforcement*
- *Expanding and enhancing partnerships with the international community Monitoring to facilitate compliance [more feedback mechanisms are needed, for instance, with catch and effort reporting mentioned below]*

[will resources be allocated in any order of preference for the following?]

1. *Designing and implementing improved enforcement services to address catch share programs [how about studying Northwest and Southwest programs, mentioned under Regional Priorities below]*
2. *Enforcing fishery closures in support of Annual Catch Limits*
3. *Enforcing gear restrictions*
4. *Supporting observer programs*
5. *Enforcing catch and fishing effort reporting requirements*
6. *Enforcing import restrictions/requirements*

Recommendations related to Protected Species and places included:

- *Improving compliance with use of turtle excluder device (TED) regulations throughout the Southeast United States[how about the Northeast?]*
- *Improving compliance with speed restrictions along the East Coast of the United States to protect endangered North Atlantic right whales [may develop VMS for this]*
- *Improving compliance with regulations designed to protect marine mammals and endangered species, habitat, and protected places, particularly the National Marine Sanctuaries through both expanded compliance assistance programs and expanded effective enforcement monitoring, analysis, and action.*
- *Expanding and enhancing partnerships with the international community to protect marine mammals and endangered marine species.*

Draft NOAA Enforcement Priorities

NOAA is establishing enforcement priorities to meet NOAA’s mission, guide its planning, and focus the use of its enforcement assets relative to marine resources. This planning will focus on federally regulated fisheries and protected species and places identified within NOAA’s priorities. Enforcement priorities will focus the use of resources while providing the flexibility and capability to respond to other enforcement requirements as conditions and circumstances dictate. While NOAA will focus its enforcement efforts on the identified priority areas, to assure deterrence, it will continue to enforce all the laws for which it is

responsible.

NOAA is identifying its proposed enforcement priorities through a consultative process within NOAA and with external stakeholders. Once established, absent unexpected circumstances, enforcement will dedicate resources to address performance targets affecting the identified priorities. The priority-setting process, including opportunities for public input, will be undertaken annually. [this process must be streamlined]

National Priorities

National Priority 1: Support Sustainable Fisheries and Safe Seafood

Domestic demand for safe seafood and recreation opportunities continue to grow. These demands will far exceed domestic supply from wild stocks. This places a premium on effective management of natural fish stocks. NOAA’s legal responsibilities in this regard encompass management of more than 500 fish stocks or stock complexes under the Magnuson-Stevens Act. Implementing management strategies that rebuild and manage fish stocks, maintain access to fisheries, and improve opportunities for aquaculture can build and sustain economically robust coastal communities and contribute to long-term food security for the Nation. Management efforts, such as catch share programs, include monitoring to evaluate their impact on stock status, while improved socioeconomic data collection will allow managers to evaluate and improve the social sustainability [is social ‘sustainability a national goal, and how is it measured?]

Increasing compliance and ensuring enforcement of needed [by definition, all regulations are needed, and, if they are not, then they should be eliminated] regulations is an important part of meeting NOAA’s goal of sustainable fisheries. Equally, NOAA must strengthen the enforcement of fishery regulations concerning international imports and exports.

International trade in fishery products directly affects the economics of domestic fisheries through unregulated and unreported harvests, and mislabeled product, and which can introduce unsafe product into U.S. markets. Illegal, unregulated and unreported fishing disadvantages the U.S. high seas fishing fleet and decimates migratory stocks important to U.S. markets and the commercial industry.

To meet the needs of the fishing industry and consumers, NOAA’s enforcement programs will prioritize:

- Implementing effective compliance and enforcement plans to support catch share management
- Monitoring fishery product imports for compliance with domestic regulations and international treaty obligations.

While compliance and enforcement plans to support catch share management is a National priority, NOAA will continue to enforce traditional non-catch share management as well. [this should be number one for next year’s Priority Setting, if catch shares should be prioritized over non-catch share management]

National Priority 2: Support Recovered and Healthy Marine and Coastal Species and Healthy Habitats

The wide range of human and natural impacts on marine, estuarine and diadromous (fish that migrate between marine and freshwater) species has led to listing of many of these species as threatened or endangered under the Endangered Species Act, with petitions to list additional species received every year. NOAA has statutory responsibility for such listed species as well as for most marine mammals under the Marine Mammal Protection Act. As human populations increase and the impacts of global climate change are realized, ensuring the recovery and long-term health of all these species is an important goal for the Nation. To ensure the sustainability and resilience of these species and the ecosystems that support them, NOAA, Federal, State, tribal and local agencies, non-governmental organizations, and industry require science-based policy guidance, economic incentive programs, and sound regulations and enforcement. NOAA is working in partnership with other Federal, State, local and tribal agencies, non-governmental organizations, and stakeholder groups to ensure that recovery and conservation plans are robust, useful and implemented. The international dimensions of this objective require participation in international species management for anadromous fish (fish that live in the ocean mostly and breed in fresh water), endangered species, and marine mammals.

Additionally, the conservation and protection of key[how is 'key' determined/defined?] marine and estuarine areas is important to sustaining marine resources. While an increasing range of uses will allow coastal communities to create diverse economies, care must be taken to ensure continued access to coastal areas, sustained ecosystems, maintained cultural heritage, and limited cumulative impacts. The National Marine Sanctuaries Act plays a pivotal role in protecting these areas. The 13 sanctuaries and four marine national monuments encompass more than 150,000 square miles of U.S. ocean and Great Lakes waters. Protected within these areas are important habitats like breeding and feeding grounds of whales, sea lions, sharks, and sea turtles [are there none for fish?]; coral reefs; kelp forests; and historic shipwrecks.

To ensure the protection of protected species and places, NOAA's enforcement programs will Prioritize [does this mean Sanctuaries come before MMA and ESA?] the following:

- Enforcement services supporting National Marine Sanctuaries.
- Protection of marine mammal and endangered species through monitoring and enforcement actions in support of by-catch reduction regulations, gear restrictions, and closed areas.

Regional Priorities Supporting Sustainable Fisheries and Safe Seafood

Focus resources on overfished stocks and stocks experiencing overfishing. Examples of this priority include:

- Northeast Region: The illegal harvest or sale of highly migratory species, such as bluefin tuna
- Southeast Region: Monitoring the red snapper and grouper catch share programs
- Northwest and Southwest Regions: Quota share deficits under the catch share program and noncompliance with trip and cumulative limits

Expand contact with the regulated communities including compliance support, monitoring and inspections of regulated activity to identify problems, deter violations and detect violations requiring enforcement action. Examples include:

- Alaska Region: Selling recreationally caught fish, such as halibut
- Pacific Islands Region: Violations of international treaties or agreements regarding tuna fisheries
- Northwest and Southwest Regions: Monitoring for restricted gear types in groundfish conservation areas
 - The Northeast VMS deterrence program should be emulated; that office identifies potential violations and notifies the vessels in question

Focus enforcement services to support commercial and recreational catch reporting in support of annual catch limit monitoring. Examples include:

- Northeast Region: Noncompliance with trip and cumulative limits under catch share programs for Northeast Multi-species or other fisheries
 - Northeast : analyze and prepare for quota share deficits using experience from NW and SW mentioned above
- Northwest Region: Mislabeling of seafood imports such as king crab
- Southwest Region: Implementation and monitoring of the tuna tracking and verification program

Regional Priorities Supporting Recovered and Healthy Marine and Coastal Species and Healthy Habitats

Expand compliance assistance, monitoring and enforcement actions to improve compliance with regulations to protect endangered species.

Examples include:

- Southeast Region: Turtle excluder device regulations in the South Atlantic and Gulf of Mexico
- Northeast and Southeast Regions: Expand programs to gain compliance with speed restrictions in Northern right whale seasonal management areas
- Northwest and Southwest Regions: Habitat protection and inadequate water flow and/or barriers to fish passage in streams that impact migration or spawning

Expand enforcement services provided to support National Marine Sanctuaries.

Examples include:

- Northeast Region: Fixed gear (lobster traps, gillnets) violations within sanctuaries
- Northwest, Southwest and Pacific Island Regions: Unlawful discharges or groundings of vessels within sanctuaries
- Southeast Region: Protection of coral reefs within sanctuaries

Expand compliance assistance to the whale watching/marine mammal viewing industry to reduce illegal vessel/person/marine mammal interactions. Examples include:

- Alaska Region: Violations involving injury or potential injury to marine mammals, such as a vessel-whale collision [are these tracked and analyzed, and where may the data be found?]
- Northwest and Southwest Regions: Unlawful interactions with Orca whales and harassment or killing of sea lions
- Pacific Islands Region: Harassment or killing of monk seals and illegal interaction with humpback whales

Enforcement Priorities

Comment No.

16



218 Main Street Box #264, Kirkland, WA 98003, wildsteelheadcoalition.org

December 13, 2011

RE: Draft NOAA Enforcement Priorities – Wild Steelhead Coalition Comments

Dear Acting Deputy Director Tracy Dunn,

The Wild Steelhead Coalition (WSC) is a nonprofit West Coast organization dedicated to increasing the return of wild steelhead. The WSC thanks NOAA for the ability to comment on the Draft NOAA Enforcement Priorities.

The WSC urges NOAA enforcement to monitor unrecorded and fraudulent catches of Endangered Species Act listed salmon and steelhead intercepted in commercial, tribal, and sport fishing. NOAA is required by the ESA to monitor and enforce illegal activity towards ESA listed species, and incidental by-catch as well as deliberate unreported catch is certainly happening throughout the Northwest and will continue without more focused measures. The WSC feels this is a significant threat to ESA species that are already challenged with degrading habitat, overfishing, and depleting abundance. Specific fisheries of concern include the Puget Sound and Columbia River.

It is clear that a lot of effort has gone into NOAA's Enforcement Priorities, and the WSC commends all of the organizations, groups, and stakeholders who have contributed to this thorough plan. The WSC appreciates the opportunity to comment on this Draft, and we thank you once again for the opportunity. For questions or requiring further information, please feel free to contact us anytime.

Sincerely,

Rich Simms
President

Chris Ringlee
VP Conservation

Luke Kelly
VP Habitat

Comment # 16

Enforcement Priorities

Comment No.

17



Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384
Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | www.pccouncil.org
Dan Wolford, Chairman
Donald O. McIsaac, Executive Director

December 14, 2011

Northwest Division
Special Agent in Charge Vickie Nomura
7600 NE Sand Point Way NE
Seattle, WA 98115

Southwest Division
Special Agent in Charge Don Masters
501 W. Ocean Blvd, Suite 4300
Long Beach, CA 90802

Subject: Annual National and Regional Enforcement Priorities, Comment Deadline December 15, 2011

Dear Ms. Nomura and Mr. Masters:

At its November 1-7, 2011 meeting in Costa Mesa, California, the Pacific Fishery Management Council (Pacific Council) reviewed the letter from National Oceanic and Atmospheric Administration (NOAA) Office of Law Enforcement (OLE) Director Bruce Buckson, dated October 12, 2011 concerning NOAA Enforcement priorities. The Pacific Council considered public comment and written statements from four established advisory bodies, including their Enforcement Consultants committee comprised of NMFS, Washington State, Oregon State, California State, and US Coast Guard law enforcement representatives, before tasking the transmittal of this letter. The Pacific Council sincerely appreciates the NOAA OLE outreach efforts on this important matter, and asks that you distribute this letter appropriately for full consideration in relevant decision-making.

NOAA OLE is seeking input with respect to (1) "setting annual priorities at the national and regional level," and (2) "how the agency can develop national and regional priorities that reflect:

- The potential effective and or threat of non-compliance to the resource
- The status of the resource
- Efforts to improve compliance
- Opportunities for deterrence
- Catch share programs
- Efforts on cases outside specific priorities
- Available resources
- Other considerations as warranted"

Comment # 17

In response, this letter (1) recommends a process or a road map that prioritizes living marine resource protection issues, and (2) identifies regional priorities so that they can be compared nationally in an effort to set direction. The planning model used on the west coast normally results in a consistent set of living marine resource enforcement priorities between the state and Federal enforcement programs.

IDENTIFYING A PROCESS

Our experience on the West Coast demonstrates that the processes associated with the Pacific Council and Joint Enforcement Agreements (JEAs) maximize the effectiveness of law enforcement by defining Pacific Coast and the nation's marine fisheries protection priorities, supporting comprehensive cooperative planning efforts, and enabling inter-jurisdictional fisheries enforcement operations. The Pacific Council has convened an Enforcement Consultants advisory body that actively participates in the Pacific Council process and advises the Pacific Council on regulations and outcomes associated with implementation. The enforcement representatives on that panel report that the Pacific Council takes their enforcement concerns seriously when making regulatory decisions. This connectivity is central to success in identifying priorities and carrying them out in a manner that results in real protection for the resource.

The Pacific Council view is that, at least in the broad sense, national priorities should mirror regional priorities, and vice-versa. Priorities should be set at the regional fisheries council level and cascade down in the form of direct patrol and investigative operations. Pacific Council protection priorities are heavily considered when developing the operational portion of JEAs. Field operations are then led by state enforcement personnel that can leverage patrol resources when there is limited Federal presence, complement the investigative role of NOAA Agents, determine compliance, identify and report on regulatory deficiencies, and bridge jurisdictional gaps.

REGIONAL ENFORCEMENT PRIORITIES

The Pacific Council believes that the highest priority should be effective and efficient enforcement of the Pacific Council's enforcement priorities and Federal regulations protecting endangered species. When it comes to enforcing Federal regulations, uniformed state officers, wardens, and troopers have a role, and NOAA OLE agents have a role. Federal and state operations must be complementary of one another in a way that addresses the considerations Director Buckson notes in his letter to the Pacific Council; e.g. status of the resource, opportunities for deterrence, available resources, etc. In the Pacific Council's view, the enforcement priority-setting mission cannot be accomplished without analyzing the roles of Federal and state officers at the same time.

NOAA is considering a change in enforcement strategy that places uniformed NOAA Officers in the field at the expense of filling vacant Special Agent positions. The West Coast States have developed and implemented an enforcement model that capitalizes on the strengths of the Federal and state JEA partnership to address Federal and Pacific Council enforcement priorities. The West Coast model has the ability to leverage over 600 general authority officers

that are already present and engaged in the community-based resource protection effort. The model takes advantage of the State partners' infrastructure in place, as well as trained, equipped and supervised personnel, already deployed to meet uniformed patrol needs. An important part of the time-tested West Coast model is the important role current NOAA Special Agents fulfill--as the necessary corresponding "detective force" with state and United States Coast Guard (USCG) partners.

We are concerned NOAA does not have adequate infrastructure in place to properly support a uniformed contingent, as is currently proposed. This approach appears to be duplicative of the state's ability to perform uniformed Federal fishery patrol functions. Investing in a "new" program versus using existing cost-efficient and available state resources does not make good sense in a time of increased fiscal challenges at the Federal and state levels.

Effectiveness on complex enforcement issues/priorities requires both patrol and detective or investigative functions. The patrol and detective/investigative functions are fundamentally different from each other. One aspect of enforcement requires call-for-service patrol officers focused on the responsibilities of day-to-day and emphasis patrols. The other aspect requires an investigative agent that is not consumed with the responsibilities that come with day-to-day patrols, and instead can focus and commit the time required to investigate large, complex cases. While many investigations are often a result of an initial uniformed officer, an investment in an agent/detective force is necessary if violations discovered at the field level are elevated.

Someone needs to have the time and latitude to focus on egregious offenses such as large-scale fraud. The expertise needed to be competent and successful in detecting, investigating, and eventually taking action on major fisheries cases necessitates a well-trained work force. It is critical to hire and train NOAA investigators with the requisite skill set to perform these complex fisheries investigations and ensure their effectiveness.

Recognizing that the highest priority should be maintaining the cohesive web of the successful Federal-state partnership in current existence on the west coast, we offer the following as issue-specific marine resource priorities.

PRIORITY ONE

ESA-listed fish/Overfished species: Given that virtually every west coast marine and associated freshwater tributary is occupied by ESA-listed or overfished species, providing access to healthy populations while avoiding impacts to recovering species is a typical challenge for the Pacific Council. As a result, commercial and recreational opportunities are tied to some of the most complex management strategies in the nation. Trawl rationalization involving over 90 species of groundfish provide one example. Adequate enforcement of related measures is the key to being able to successfully prosecute fisheries without negative effects on stock rebuilding efforts.

Anadromous species provide a second example. For these species, adequate enforcement means providing a law enforcement presence throughout the range of migrating fish, not just

saltwater areas. Pacific salmon, steelhead, and Eulachon rely on thousands of miles of freshwater spawning and rearing habitats far inland from the Pacific Coast. If illegal take of sensitive species and habitat destruction goes unchecked, the repercussions will be felt in fisheries that occur elsewhere.

Unfortunately, West Coast ESA listings are not limited to just fish. Several marine mammals have this distinction, and require law enforcement presence to monitor and control human interactions.

Related State Activities:

- ESA-listed fish protection in marine/freshwater: patrolling closed seasons and take prohibitions, enforcing selective fishery regulations, detecting and enforcing hydraulic and other habitat laws.
- ESA-listed marine mammals: enforcing vessel interactions with Southern Resident Orca Whales, human interactions with other listed marine mammal species along the coast.
- Overfished groundfish stocks: patrolling marine protected areas and conservation lines, enforcing laws related to Trawl Rationalization and other sectors of the groundfish fishery, monitoring catch accounting.

Related Federal Activities:

- Coordinate cooperative compliance programs in watersheds with a history of water diversion, barriers to fish passage, and screening.
- Assisting in and coordinating investigations involving egregious hydraulics violations and habitat damage.
- Investigate large-scale ESA take case referrals.

PRIORITY TWO

Protection of Healthy Stocks: At-sea and dockside law enforcement presence during commercial and recreational fisheries under a Federal management plan is important to both a fair playing field for participants and fishery sustainability.

Related State Activities:

- Patrolling the Exclusive Economic Zone (EEZ) by vessel to ensure compliance with limits, gear requirements, area closures and seasons.
- Patrolling dockside to ensure compliance with limits and seasons. Particular focus should be on species, daily, trip, weekly, monthly and cap limits and total catch accounting.

Related Federal Activities:

- Investigate field referrals involving significant catch accounting violations and fraud.

PRIORITY THREE

Lacey Act Enforcement / Domestic Undocumented fish: In general, when fish and shellfish resources have been taken in violation of state, Federal, or tribal law, have a nexus with commerce, and are transported across a state or an international border, a violation of the Federal Lacey Act has occurred. Expanding patrol and inspection activities beyond fishing grounds and typical fish delivery sites is critical to taking the profit out of poaching, protecting the integrity of legitimate commercial industry, and determining whether catch was fully accounted for. Successfully tracing products through a highly mobile market is reliant on an investment of time conducting inspections at border crossings with Canada, Mexico and adjoining states, as well as cold storage facilities, shippers, and retail markets.

State Officers/Troopers have the broad inspection authority over commercial businesses engaged in dealing, shipping, transporting, storing, selling, or buying natural resources that is necessary to detect large-scale abuses.

Related State Activities:

- Border inspections on inbound and outbound commercial fisheries products to ensure compliance with harvest and catch accounting regulations
- Ground and air shipper inspections
- Market place inspections that detect undocumented fish, illegal commercialization, and misbranding or mislabeling events that undermine commercial fishing business and defraud consumers

Related Federal Activities:

- Focus on large scale violations involving the movement of illegally taken or marketed fish with interstate or international nexus
- Lead and coordinate multi-jurisdictional approach to investigations

PRIORITY FOUR

Illegal Foreign Fishing Incursions: Obviously the presence of vessels fishing illegally disadvantages our fishermen and industry through competition for limited resources. But just as important, it compromises fishery management plans. Other ancillary impacts occur through unreported catch and failing to follow strategies that were designed for fishery sustainability. Given how tightly resources are managed today, a small number of non-compliance events can have profound impacts on legitimate U.S. commercial fishing operations.

Related State Activities:

- On the water patrol presence
- Collaborating with other law enforcement entities with joint border concerns

Related Federal Activities:

- Coordinate the cross jurisdictional investigative response.
- Investigate large scale illegal harvests

USCG COMMENTS

The US Coast Guard is an important partner in the West Coast enforcement efforts. The Pacific Council understands that the USCG will be providing comments separately and strongly encourages their consideration in your decision-making process.

Thank you for this opportunity to provide comments on enforcement priorities on behalf of the Pacific Council.

Sincerely,



D.O. McIsaac, Ph.D.
Executive Director

- C: Pacific Council members
- Enforcement Consultants
- Mr. Bruce Buckson
- Mr. Terry Duhn

Enforcement Priorities

Comment No.

18

Tammy Harp: Thank you. Aloha and aloha, Scot. I'm sure (Isaac) would like to - for me to say aloha to you too; long time. And then, my question is can NMFS maybe help subsidize the circle hooks for the fisheries?


Leslie Bales-Sherrod: Hello, Bill?

William Pickering: Yes, I'm sorry. Tammy, I just couldn't quite understand.

* Tammy Harp: Can NMFS help subsidize circle hooks for the fisheries? *Comment # 18*

William Pickering: Oh, well, it's - that is a question more for the (Pyro) people, for (Mike DeSato) and his people to answer. That's - you know unfortunately it's not in line with us, but it's something that I can carry forward and something that I encourage you to ask at the next Council Meeting, which will be in March. And prior to that Council Meeting, of course, on their Web site you can put your question and answer, so to speak, on something like that, but it's kind of out of our lane, as they say.


Leslie Bales-Sherrod: We'd be happy to pass that along to the appropriate people, in addition to the suggestions that Bill had about getting that question to the Council. Thank you, Tammy.



Enforcement Priorities

Comment No.

19



* (Ed Usui): Anyway, I have two comments, one in the national priorities area, and the second the regional. And the first comment has to do with National Priority 1, Supporting Sustainable Fisheries and Safe Seafood.

William Pickering: Yes.

(Ed Usui): I was wondering if OLE would weigh in and take a position on - I think it's - and I think it's a long-standing request for a NOAA Certification Program for sustainable fisheries and products. I think that would certainly help to support sustainable fisheries by a certification program with the consumer, you know, can see and know that it's - that the product that they're buying comes from a sustainable fishery.

Comment # 19

William Pickering: And then, (Ed), are you talking about - in other words, coming out of the cannery, for an example, out of American Samoa or the fish that would come in via the docks here in Honolulu and be sold at the fish mart?

(Ed Usui): Both. You know, my concern, I guess to be more specific, is that you know we get a lot of imports, not only in the tunas, but also bottom fish.

William Pickering: Yes.

(Ed Usui): And these imports are coming from all over the world.

William Pickering: Yes.

(Ed Usui): And from fisheries that are not regulated as highly as ours. And so, I think the - you know I think it would be certainly helpful to our domestic producers if there were, you know, some kind of badge or some kind of a certification that says, "Hey, this product came from a sustainable U.S. fishery."

William Pickering: I understand and I - that's something that we can take onboard here and pass it up to the national level.

(Ed Usui): Okay, because I think it's been discussed, you know, in the past, but it just - nothing seems to happen.

William Pickering: I - you know I understand. In other words, you're looking for some type of certification, for an example, that bottom fish that might come from outside the country that that bottom fish was caught in some type of a sustainable fishery program?

(Ed Usui): Or - no, that our domestic fisheries...

William Pickering: Oh, okay...

(Ed Usui): ...our domestic stuff is certified as sustainable.

William Pickering: Okay, I understand now.

(Ed Usui): I think that - and that would really help to dispel a lot of the misinformation that's flying around out there.

William Pickering: Okay.

Scot Yamashita: And this is Scot, would it be the same or would it be acceptable to say if we made a statement unlike sustainable, but maybe perhaps to say that the stock was at a sustainable yield?

(Ed Usui): Well, I think the word - I mean, you know, sustainability has its own - I mean, it has become a very key buzz word and is something that I think the consumer understands very quickly. So, I would - I guess where I'm going with this is it would be good and helpful to our domestic producers if NOAA would step up and issue these kinds of certifications saying that this is fish is caught in a sustainable fishery or a sustainable - has been sustainably maintained or whatever.

You know, something that just...

Scot Yamashita: Yes, (unintelligible)...

(Ed Usui): ...conveys the idea that it comes from a fishery that's regulated and has been deemed to be sustainable.

Enforcement Priorities

Comment No.

20

Leslie Bales-Sherrod: Great. Great. Thank you for that comment and that idea. We're taking down all of these comments and ideas and if they are enforcement-related, and some of them probably are, but even if they're not we'll make sure they get to the right people.

(Ed Usui): Great. Thank you. And the second comment I had has to do with the regional priorities, and for the Island area or region. The last bullet item talks about expanding compliance, assistance, whale-watching, (unintelligible) viewing, reduce illegal vessel person interactions, et cetera...

William Pickering: Yes.

* (Ed Usui): ...just as examples. I was wondering if you folks would be comfortable with including shark feeding in Hawaii.

Comment # 20

William Pickering: Well, I - as you know, (Ed), we've kind of - we've tried to aggressively address that in federal waters, and at the same time we encourage the - you know the state and have tried to assist them in how they're handling shark feeding and the laws they passed. And on that - and I wanted - and I should have emphasized, and I'm sorry that - if I didn't, but in regards to the regional priorities that that list there is not all encompassing, but something that we were trying to - as - list as examples.

But certainly, like I said, something that we will - we have taken a look at, but will continue to look at and try to expand on because it does seem, as you know, out here in the Pacific that not only the - locally, in regards to the State of Hawaii and CNMI, Guam, and American Samoa seem to be addressing that. But, our Pacific Island country's brothers and sisters, that also seems to

Enforcement Priorities

Comment No.

21

* Tammy Harp: Okay, I have to unmute myself. Anyway, what (Ed) was saying I have to agree with him because I think fishery management accountability, you know, should be, you know, looked at pretty closely now, especially now. I mean, you know, and what Scot said about fish stock at sustainable yield. Perhaps we might have to be looking at management in terms of seasons, you know - well, anyway, I don't know if you - that's just my comments.

But as far as NMFS, I'd just like to put this idea out. You know, we had this incident thing with Kulani, you know, facility and what the National Guard Academy. I opposed it because I didn't want the children up there. It so desolate. But anyway, is there a way that NMFS could - enforcement could work with these children in order to help them get into like - perhaps with the Coast Guard, because being that we are ocean people, you know, and it'll give them skills and stuff, but I wonder if, you know, there's any thought to putting, you know, productivity back into our youth?

William Pickering: Well, Tammy, as you know we run outreach programs here where the enforcement officers and the agents will come out and spend a lot of time, you know, with the kids that are like, you know, elementary, junior high, and the school area, as well as, you know, when we have the fish days or that we have some of the scientific days up at UH where the children come up.

But, are you suggesting that more interaction or that there be some type of road provided for them if they have an interest in joining the U.S. Coast Guard, is that your question?

Tammy Harp: Yes, that or perhaps work in the Observer Program, you know? I'm sure this could go all throughout the Pacific because, you know, these are children that's termed at risk, and some old folks don't like that term.

Comment # 21

William Pickering: No, I understand. But, I mean, the - you know the Observer Program is an excellent idea and something that we can pass on here. And as you know, that program is a - the - once you get accepted at that it's a difficult program to get through. The instruction here at the - kind of the academy school that they put them through that not everybody passes that, and so they're always looking for, you know, good observers. It's a tough - you know it's a tough, you know, job and it takes a certain type of individual. And for those who enjoy being on the water and doing that type of research that has, you know, an effect on the community and all of us, that's a - it's a huge thing and something that's very positive.

In regards to the Coast Guard, as you know we work with those individuals everyday and the enforcement branch here is excellent. Admiral (Ray) is a very positive individual about - with the youth, and certainly will pass that on to him, but something that he is more than willing to engage in, and something that he would be very receptive to.

Tammy Harp: And how receptive would NMFS to the idea of having a Coast Guard station based at Midway?

William Pickering: Well, it would - that's a Coast Guard decision, but something that I can pass on to them that you suggest that they station individuals there. Whether that happens or not - the Coast Guard currently - I know currently flies the monument area and lands up there, but as far as permanently being stationed there they don't have anybody yet. But, certainly that's something the next time I see Admiral (Ray) I'll voice, you know, your effort to try to do something like that.

Tammy Harp: Yes, because you know attitude is different now. It's not so exploited as before on any of the resources. It's like it's calming down - you know,

calming, C-A-L-M, you know, calming down the Pacific. And you know, utilizing the people, the - especially the native children - you know, the children that's messed - you know that's considered messed up, which is really a - you know they're (hoping) for information, but we have to give them the opportunity, because we're a hands-on people here in the Pacific...

Leslie Bales-Sherrod: Right.

Tammy Harp: ...we have to do things, you know, in order to learn. We cannot just read them from books.

Leslie Bales-Sherrod: Right. Tammy, I think those are some great ideas. And in addition to the local people that Bill and Scot know with Coast Guard, we actually have a Coast Guard liaison here in our headquarters office, and I can take these comments once we get - the call's being recorded, so we can capture all these great comments and suggestions you guys have. And I can also pass those along to our Coast Guard liaison here, because he works directly for Coast Guard. I'd be happy to do that.

Tammy Harp: Oh, thanks. I do have one more thing about what I said earlier about the - you know help subsidize circle hooks for the fisheries. I mean, if there's penalties and stuff, you know there's monies, right? So, couldn't some of that monies go to subsidizing these circle hooks to avoid interaction with turtles?

William Pickering: You know, Tammy, I - it's something that we can explore. I think Kurt Kawamoto is the - I - is the individual who runs the Circle Hook Program for (Pyro) here upstairs from us, and something I can certainly talk to him about, you know, after this call.

Tammy Harp: Thank you. I think that's all for now.

William Pickering: Oh, thanks, Tammy.

Tammy Harp: But, it's good that, you know, we do need to make sure about our fisheries, like how (Ed) how saying. We need to know where our fish is coming from, you know, and if it's farm-raised then put it on, and if has a, what is that, that CO2 thing or whatever - what was that (unintelligible), kind of thing? That's got to be told. I mean, we need to know things.

William Pickering: I agree with you, Tammy.

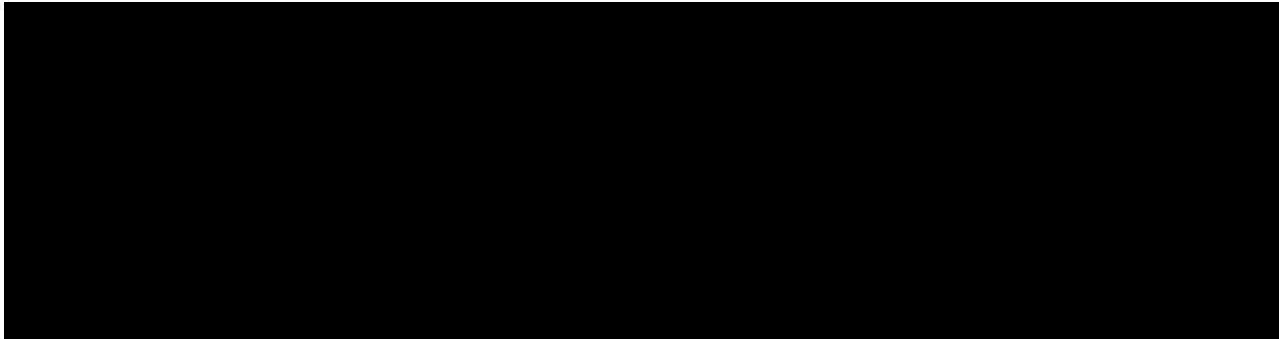
Tammy Harp: Maybe the FDA needs to get involved. I think that's where we need to go.

Leslie Bales-Sherrod: Okay.

William Pickering: Well, we're very fortunate the FDA has just - just is in the process of stationing a brand new special agent here who I've had a relationship with in the past, and he's an - a very aggressive individual and I think in the next couple of months he'll be transferring here and you'll get a chance to probably interact or meet him at some time.

Tammy Harp: Well, I'm hoping that he's sustainable thinking too.

Leslie Bales-Sherrod: Great. Thank you, Tammy.



Enforcement Priorities

Comment No.

22

* Linda Paul: Yes, my question has to do with this annual - how you guys monitor or make sure that what fisherman are reporting in their log books, with regard to their catch of big eye tuna. As you know, at first they were going to close it for them having - (Mike DeSato) said they were going to reach their quota and they were going to close it, and then they opened it back up again, and said it looked like they weren't going to reach their quota.

But just as practical matter, how is that you guys keep - besides the log books, how is you sort of double check this to make sure there's honesty with reporting this stuff?

Comment # 22

William Pickering: Well, there's a couple of different - I mean, well, more than just maybe two ways here. One, of course, there is the log books, like you said, and that the enforcement officers, as well as the special agents, will go down to the docks when they're offloading in the morning here and check the fish coming off and check the log books.

The other, of course, is the observers onboard that - do their log books, their notes, their diaries coincide with what the Captain's log book says? And then, on one of the other things that we do, as you know Terry Boone, running the VMS program, Linda, we will also take our VMS data and compare to that the log books.

A lot of times that's done by the science center, but that in turn kind of helps that or substantiate - as you know where - in the log books will be the location, lat, longitude, and et cetera of where the fish was caught, and does that coincide with the VMS information? And that just helps us, like I said, kind of validate all those aspects of what's in the log books.

Do we get fooled? I hope not. You know, it's always possible and - but for the most part, I think as you know, you know the Captains here and the fisherman here in Hawaii and American Samoa and Guam and CNMI are - you know are a pretty good - you know pretty good set of individuals. And, you know, I must say, you know, that we're very lucky in this region to have the kind of people that we do, and especially even the owners.

I know they're not out there, but we have now tried to give them the ability to monitor their own vessels (DOR) VMS system and just to give them one extra step of being able to watch what their boats do. And again, that self-compliance to where, you know, if we don't have to get involved and people are staying within the rules and regs, you know, that's a great thing and it certainly helps all of us, you know, get along well here.

Linda Paul: Well, thanks. And the other question I had has to do with the shark - enforcing the shark finning rig, or - as you know, Congress passed a law last January, I guess it was, requiring the fins to stay naturally attached to the shark, but there haven't been any regs imposed. So, are you guys still imposing the 5% fin ration, and how's that going?

William Pickering: Yes, we still do impose the 5% ratio, but you know in the main Hawaiian Islands we don't see a lot of shark fins landed here. And so, it doesn't - there are - as you know within the WCPFC, and sometimes when they're doing the boardings, the Coast Guard patrol boardings at sea, under the WCPFC effort, that they will see shark fins on foreign vessels, and again, that's - of course, that's another thing that's out of purview. But to answer your first question, yes, we still are enforcing the 5% rule.

Linda Paul: Okay. And is that - I mean, what's your personal feeling about whether that's enforceable or not? I've heard from the Coast Guard saying they just don't

think it's enforceable from - because it's just - you know, if you have a hold of a ship and you're going to have - basically have to look over the whole thing to make sure there's that percentage.

William Pickering: Well, it's a difficult - you know it's a difficult - I would have to agree with the Coast Guard. When you're at sea and you've got a hole that's almost full, a lot of ice, a lot of things are frozen, you know it is a good estimate at best and the guys out there try to do their best.

Obviously, the optimum situation is when you're right here at - in front of the fish auction and they're unloading and you can actually, you know, weigh, you know both the carcass and the number of fins right there, which is - it's - you know like I said, is the optimum situation. But, it's not always one that we encounter, especially if there's transshipping at sea, as you know.

Linda Paul: All right. And transshipping at sea, how big a loophole is that for unreported catches to basically bypass Honolulu? And I don't just mean that with shark fins, I also mean that with even (such any grade fish)?

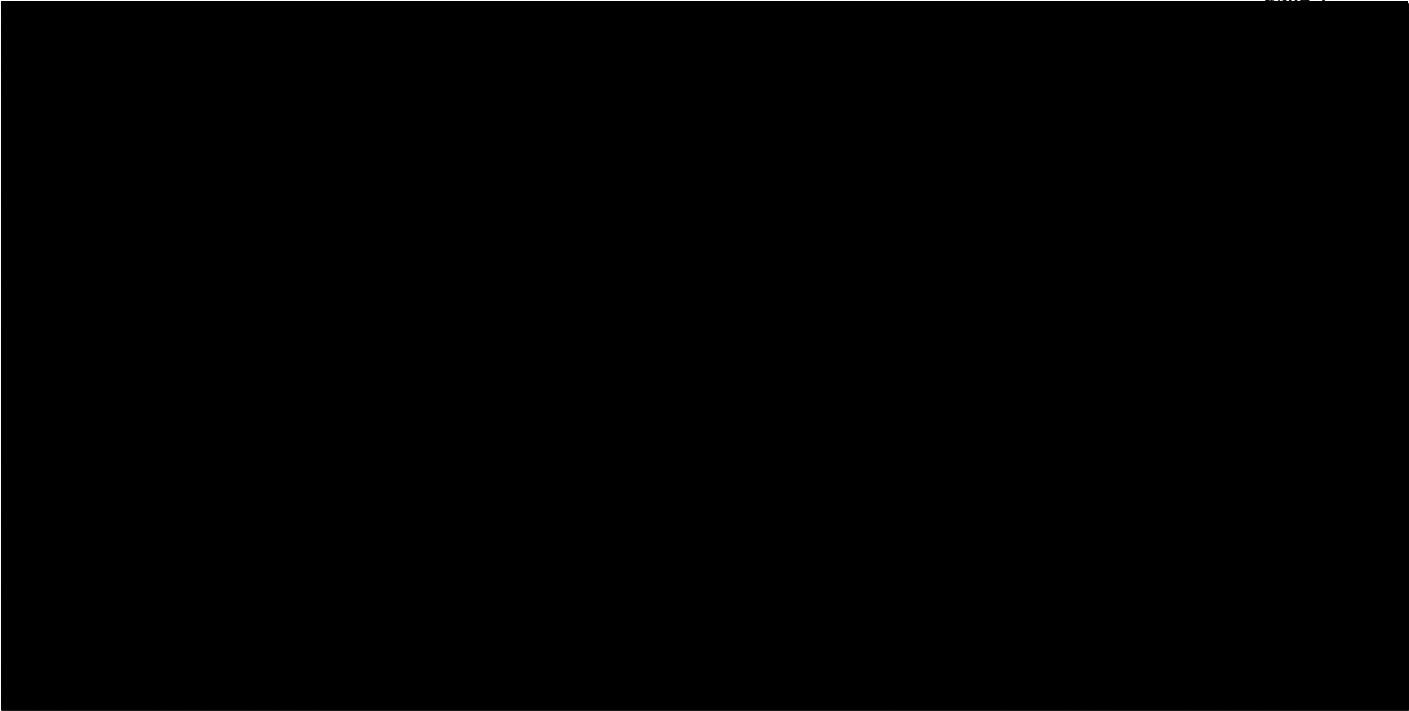
William Pickering: Well, I - in the long line industry, we don't see it. I mean, I - you know I don't think, you know, the - what we know of just doesn't really exist, you know, with our transshipping here. The (persainers) that are out at sea, as you know, there's a 100% observer coverage on those and as long as that situation is working and the notifications are made, as you're well aware of haven't been at WCPFC and TCC, you know, that should help that you keep that type of situation at a very low minimum where illegal transferring is occurring.

I'm not saying it doesn't occur, but I'm just saying that hopefully that the vessels that do comply with WCPFC and FFA rules that at - that's - that that type of illegal activity is at the bare minimum.

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* Jack Sanchez: Thank you. I'm Jack Sanchez, president of Save Auburn Ravine Salmon and Steelhead, located in Auburn, California. And I would like to speak to the issue of collaborative law enforcement. I would urge NOAA Fisheries to develop an expanded role in investigating violations of the Federal Clean Water Act, typically enforced by the EPA in the Central Valley of California.

As water conditions and fish habitat concerns go hand in hand, and since the EPA typically does not investigate small violations, like violations on tributaries of the two great rivers in California for steelhead and salmon, because of the manpower issues of EPA, NOAA fisheries can really help by expanding its role in collaborative law enforcement.

NOAA Marine Fisheries ought to use this great law to investigate pollution cases impacting habitat and case in which, take issues under ESA would be difficult to prove, absent dead fish, and the take issues are very important for organizations, 501(c)(3)s like SARSAS to get funding for fish screens and fish ladders.

The collaborative law enforcement method used by Special Agent Don Tanner in the Sacramento, California office has resulted in over half the Auburn Ravine, a tributary of the Sacramento River, being reopened for salmon and steelhead spawning in a very short time, under three years.

Nine flashboard dams were returned to compliance with their removal not later than October 15th, and staying removed until October 15th, as a result of Special Agent Don Tanner's collaborative contacts with dam owners, more agencies, organizations, local government, individuals.

Collaboration has resulted in the funding of a major fish screen on the Pleasant Grove Canal, a fish screen on the Albert Schreiber Canal, a fish ladder just completed in the Lincoln Gauging Station, and plans for fish passage over the Hemphill Dam.

It is our belief that of the 738 tributaries that go into the two great rivers of California, that restoring these tributaries is a primary concern for any methods of keeping salmon and steelhead from going extinct in the great valley of California.

SARSAS urges that the Sacramento Office of NOAA Fisheries be given additional funding and authority for collaborative law enforcement technique to help save salmon and steelhead in the Central Valley of California. And thank you for your time.

Coordinator: And does that conclude the question or comment?

Jack Sanchez: That's, if you have any questions, I'd be glad to answer them. I just want to urge that you continue your insipient move toward collaborative law enforcement technique, because I think it's so successful, and you're able to

move very quickly by removing the adversarial law enforcement technique, and going to the collaborative law enforcement technique.

Vicki Nomura: Thank you Jack, I think that was really, we really appreciate that kind of feedback. And I think it's especially nice that you mentioned our Special Agent who's been working so hard on these issues. And we will definitely take these comments into consideration when we are, when we're revisiting our priorities, you know, because right now they're in draft.

And so this is great feedback on something that we're already doing. And I appreciate you calling in and giving us that feedback. That's really nice to hear.

Jack Sanchez: Well thank you so much, and thanks for your time, and I will email you a longer draft of my presentation here.

Vicki Nomura: Sure, that would be great. And that email address is on our Web site. It's enforcementpriorities@noaa.gov. Thanks, Jack.

Jack Sanchez: Okay, thank you so much Vicki and Don. You two keep up the good work, and put NOAA Fisheries right center stage.

Coordinator: Thank you, and as a reminder, if you have a question or a comment, it is star 1. Make sure your phone is unmuted, and record your name slowly and clearly for introduction. And it is star 2 to withdraw that request. Our next question or comment comes from (Mike Sensi), your line is open.

(Phil Anderson): Actually it's from (Phil Anderson). (Mike) is here with me. Thanks for having this opportunity for us to provide some comment, Vicki and Don. We talked a

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(Anderson) :

little bit about the Office of Law Enforcement in the summit that was held back in D.C. here, a year ago last August.

There was a lot of issues brought up at that summit, specifically as it relates to the Northeast part of the country, and some potential changes in how the Office of Law Enforcement and its resources were distributed throughout the country, and this difference between providing investigative operations versus uniformed officer presence.

At that meeting and since, we've talked a lot about the, what I'll refer to as the West Coast model, and the really great partnership and collaboration that the state law enforcement, fish and wildlife agencies have had with the Office of Law Enforcement on the West Coast, and how we've collaborated and tried to make use, and be the most efficient and effective as we can with our resources, by pooling our resources where that makes sense, and making sure that we're coordinated in our efforts.

And one thing that I don't see on here is any mention from a Northwest, Southwest regional priority perspective, on having a priority that specifically addresses collaboration with state fish and wildlife law enforcement entities. And I was, my question is, was that considered by the Northwest and Southwest regions, and decided, while that may be a prior priority it wasn't one that, without fit into this particular document?

Or what was there, what was the discussion, if any, and the rationale for not including that as one of your priorities for the West Coast?

Vicki Nomura: So, this is Vicki. Thanks for the question. I don't know, Leslie, is, are you okay with me responding now? Are we taking questions and getting back to people later?

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Like I said, we, we're, you know, we've got till January 9 to take all this great feedback from people. But I think that it's a good point, and I appreciate you bringing it up and being on the call, so that we can make sure and pass that up the chain. Thank you.

(Phil Anderson): May I just have 60 seconds to respond?

Vicki Nomura: Sure.

(Phil Anderson): Well, I'm not suggesting that it's not happening, and I appreciate the work that Vicki and Don and the state reps have done in this regard. They do, they've done a lot of work. It's matured a lot over the last decade. But from what I got out of the OLE summit was that we are somewhat unique in that.

And that this type of collaboration doesn't regularly occur in other parts of the country, and it has been extremely valuable for both, I can speak for the Washington Department of Fish and Wildlife, it's been extremely beneficial to us to have that kind of collaboration and cooperation between the states as well as with OLE.

And I think with the shifting of resources, from what I've understood has occurred from the West Coast to the East Coast, in some cases as the result of the problems that have been raised on the East Coast, it makes it even more important that we be as effective and, excuse me, as efficient and effective as we can. So I'll provide some written comments to that, in that regard prior to the 9th.

Vicki Nomura: Great, thank you so much.

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(Peter Flornoy): All right, thank you very much, and thank you both, Vicki and Don. Really appreciate the opportunity to comment, and also appreciate the kind of outreach that you all have developed here. I don't have the priorities right in front of me.

I have read them, and I guess my question is kind of general, in the sense that it sounds as though these different comment periods for ((inaudible)) and fishery service, NOAA enforcement, are kind of focused on, primarily the U.S. EEZ, as opposed to international enforcement. And I was wondering if my perception was correct, and if it isn't correct, if you could talk a little bit about international priorities.

Vicki Nomura: Thanks (Peter). If they are coming across as focusing only on national, I don't think that's accurate, because we in NOAA are, part of our responsibility does include international treaties and laws, as you know, (Peter). And so, if we haven't done a very good job of talking about our international responsibilities, then thanks for asking the question, because we need to do that.

And I don't know, Leslie, do you think that there's something more specific in the draft document addressing international issues that...

Leslie Bales-Sherrod: You know, I, Vicki, I was seeing here, thumbing through it, and I think that's a great comment, (Peter), because I know that - I work here at headquarters, under one of the assistant directors who is over our international enforcement programs. And he is constantly busy. We have a lot going on internationally.

So I think Vicki's right. If that's not coming across in this document, that may be one of, something we obviously want to revisit when we take the draft

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document and turn it into a final. Because I know that we have a lot going on internationally, and we want to make sure that's reflected as well. So thanks for bringing that to our attention.

Vicki Nomura: And (Peter), as you know, when you go to the different RFMO meetings, or international meetings, well, like, recently we were at the Tuna Bilat up in Canada. NOAA's involved in those, and to the extent that the Office of Law Enforcement typically has representatives there. So we do have international responsibilities and we are involved, and we do need to be sure that that comes across in our priorities.

So, if you have any specific written comments, (Peter), that you'd like to provide to us, after the fact, we'd like to hear them.

(Peter Flornoy): Thank you very much and, yes, I'll provide those comments. Just very briefly, Number 1, I think international enforcement should be a high priority, particularly from, I guess, my client's point of view, in the sense of trying to have a level playing field.

But secondly, I think I would like to see more emphasis on cooperative enforcement agreements with other countries that focus on IUU fishing as opposed to, you know, checking, safety checks on U.S. fishing vessels. But I'll put that in writing.

Vicki Nomura: Great, (Peter), thanks.

Coordinator: Thank you, and we do have another question or comment. We have a comment coming from (Jock White). Your line is open.

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(Jock White): Yes, thank you very much. My question, probably for Vicki and Don is, what is the outlook for funding in the President's budget for 2012, and how likely is that to change up or down in 2013? It was noted in the document that resources are limited, and in the run-up to the, introduction to this conversation. And I'm just wondering how much more acute that problem is likely to become in the coming years.

Vicki Nomura: Leslie, do you want me to try to answer that? Or did you want to take that from headquarters?

Leslie Bales-Sherrod: Well, I don't actually, have an answer about budget. I'm not sure if that's something that you and Don have more of an eye on. If it's something that we don't know the answer to, though, (Jock), it's something that we would be willing to, obviously, look into and get back to you about. I don't know anything about the budget, though, Vicki. I'm not sure if you and Don have any visibility on that.

Vicki Nomura: (Jock), I can give you my general sense. I don't know any specifics. We don't, I don't have my budget yet, and Don doesn't either. But my sense is that at least this past year and for this coming year, the Office for Law Enforcement has lost our ability to tap into something that is called the Asset Forfeiture Fund to, which we have historically used to support enforcement services, and support travel for agents who have investigations that they're working on an ongoing basis.

The use of those funds has been greatly restricted, starting last year, in fiscal year 2011. That is going to continue into the future. So what that means for us is, we have to shift those expenditures, and it now comes out of our programmatic budget.

So we have seen no increases, and actually, we're looking at some severe restrictions, and an actual cap on certain components of our budget, namely travel, right now, but I expect additional restrictions and caps to come down in other areas of our budget. So, my sense is that it's going to be even more challenging for us to get around to do our job.

We, we're, and that's why setting priorities is so important to us, because we really do have, on the West Coast, Don and I both have lost a tremendous number of agents over the last two years. We have not been able to backfill any of those agents. So we are still faced with the same number of actions and activities that we typically have, maybe even more with this new, with some new regimes out there.

And we're having to do it with much fewer people. So we have to, really, get help from everybody that has an idea and an interest, and tell us where we should be spending our resources, because we can't be everywhere all the time. We are able to maximize what we can do through the use of our joint enforcement agreements with our state partners, who tend to be in a lot of areas where we're not.

And they work very closely with us. They are very well trained. They are, they extend our ability to see and hear things, and they share that information with us. We work collaboratively together to determine the best course of action on who should take the lead on any particular complaint, or any particular problem that we see.

We work collaboratively up and down the West Coast to make sure that our approaches are consistent, so that, for example, we're not doing something in California, dramatically different from something in Washington, when it's in essence, the same sort of problem or concerns.

So, just very generally, I can tell you, my sense is the funding is going to be, is going to continue to be a challenge for us. If you want more specifics than that, (Jock), I think I'd have to get you hooked up with our budget person in Washington, D.C., because they will know a lot more of the details than I have right now.

(Jock White): Well, thank you for that. I guess I was just thinking that it might be helpful, if I was to make a formal comment on top of my question, it would be to prioritize ways to work more cooperatively with state wildlife and fisheries enforcement organizations, and to use their people on the ground.

If there's a possibility to share resources, and to do the coordination at the federal level across state boundaries, but to allow, if there's investigative work that needs to be done on the ground, or surveillance work, that to some degree you might be able to get more of that done at a lower cost point by partnering with, continuing to partner or increasing partnerships with state organizations.

Vicki Nomura: Yes, we agree with you. And thanks for the comment. We would appreciate getting that in writing from you.

(Jock White): You bet.

Enforcement Priorities

Comment No.

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North Pacific Fishery Management Council

Eric A. Olson, Chairman
Chris Oliver, Executive Director



605 W. 4th Avenue, Suite 306
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Telephone (907) 271-2809

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Visit our website: <http://www.alaskafisheries.noaa.gov/npfmc>

December 20, 2011

Tracy Dunn, Acting Deputy Director
NOAA's Office of Law Enforcement
8484 Georgia Ave., Suite 415
Silver Springs, MD 20910

Dear Director Dunn:

The North Pacific Fishery Management Council (Council) met December 5-13, 2011 in Anchorage, Alaska. During that meeting, it came to our attention that NOAA is seeking comments on its draft enforcement priorities that were released on November 8, 2011. Overall, the Council supports the direction of the enforcement priorities and feels these priorities will provide clarity in managing the North Pacific fishery resources while also protecting marine resources. However, in reviewing the draft priorities, the Council does have one comment concerning the expanding role of NOAA enforcement to include compliance assistance for the whale watching and marine mammal viewing industry. The Council recognizes the need for enforcement of this industry to reduce illegal vessel/person/marine mammal interactions, but expanding the role of NOAA's enforcement programs to prioritize enforcement of this industry will take valuable and limited North Pacific NOAA enforcement assets away from their primary enforcement objectives. In the North Pacific, NOAA enforcement assets are charged with enforcing a complex array of domestic regulations and international treaties, including enforcement of the maritime boundary and high seas driftnet violations. In addition, they also conduct patrols and investigations throughout coastal Alaska to enforce fisheries regulations and total catch limits as well as conduct extensive outreach to commercial fishermen and the fishing industry throughout the Alaska Coastal Communities. Recognizing the extensive role of NOAA enforcement in the North Pacific and the crucial nature of the agents and officers necessary for enforcing North Pacific fishery regulations, expanding the NOAA's role to enforce whale watching and marine mammal viewing industry would likely be at the determinant of its current enforcement objectives.

Thank you for your consideration and attention on these matters.

Sincerely,

Chris Oliver
Executive Director

Comment # 27

Cc: Mr. Eric Schwaab, NOAA Fisheries AA
Ms. Sherrie Myers, NOAA Enforcement, AK Region
Dr. Jim Balsiger, NOAA Fisheries, RA AK Region

Enforcement Priorities

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2 monk seals found dead on Molokai, foul play not ruled out

Posted: Dec 23, 2011 7:59 PM EST

Updated: Dec 23, 2011 7:59 PM EST

MOLOKAI (HawaiiNewsNow) - Two monk seals were found dead under suspicious circumstances on Molokai.

According to the National Oceanic and Atmospheric Administration, a yearling female was found dead on the south side of the island.

Officials say she had the potential to add to the species' population.

A necropsy performed showed the two seals died under suspicious circumstances. According to NOAA, foul play cannot be ruled out.

Anyone with information about this case is asked to call the anonymous hotline at 1-800-853-1964.

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Comment # 28

Enforcement Priorities

Comment No.

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Comments: Draft NOAA Enforcement Priorities

12/26/2011

Regional priorities:

Northwest and Southwest Regions: Quota share deficits under the catch share program.

Comment: There is a need for better real-time data collection and information dissemination from the Observer program in the Pacific groundfish rationalization program.

As it is now implemented Observer information is so slow that bycatch information is reported months after the trip is finished. Vessels are required to make up deficits long after the trips are over which places a burden on fishermen. The fishermen are required to continually scramble to find quota to fill these deficits. This makes planning extremely difficult.

Procedures and resources should be in place that allow for more timely Observer reporting, which will allow fishermen to fill their deficits just once after a trip is completed. If fishermen are required to continually look for quota to fill these bycatch deficits it is possible that they could be held up by unscrupulous operators for exorbitant fees.

Enforcement information:

Regulations have become so complicated that it is next to impossible for fishermen to understand exactly what they need to do to be in compliance.

Fishermen should be able to call their local enforcement agents and get regulatory information in a timely manner. Fishermen should be able to get the information directly or be directed to an office that can provide the information. The days of "look it up in the Federal Register" must be over.

It should be made clear to enforcement officers that most fishermen are trying to do the right thing and are not looking to game the system.

Endangered species status:

Resources must be allocated to bring the status of endangered species up to date.

Example- In the last sperm whales recovery plan it states that there are at least 300,000 (some studies state 1.5 million) sperm whales worldwide and that in order to down list from endangered to threatened status at least 250 mature females and 250 mature males are needed in each ocean basin to ensure that no more than a 1% chance of extinction in 100 years.

It seems that if there is at least 300,000 sperm whales there must be 250 mature females and 250 mature males in each ocean basin. The recovery plan further states that it will take \$173 million and 10 years study to determine whether or not to down-list sperm whales from endangered to threatened status.

What this means is there is no intention of ever down listing sperm whales. The unintentional take of a sperm whale when the animal is in reality not endangered can cause hundreds of millions of dollars in resource and jobs lost .

(See below)

1. Given current and projected threats and environmental conditions, the sperm whale population in each ocean basin in which it occurs (Atlantic Ocean/Mediterranean Sea, Pacific Ocean, and Indian Ocean) satisfies the risk analysis standard for threatened status (has no more

than a 1% chance of extinction in 100 years) *and* the global population has at least 1,500 mature, reproductive individuals (consisting of at least 250 mature females and at least 250 mature males in each ocean basin). Mature is defined as the number of individuals known, estimated, or inferred to be capable of reproduction. Any factors or circumstances that are thought to substantially contribute to a real risk of extinction that cannot be incorporated into a Population Viability Analysis will be carefully considered before downlisting takes place.

Thanks for the opportunity to comment,
Sincerely, Paul Clampitt

[Redacted signature block]

[Redacted] WA [Redacted]
[Redacted]

Enforcement Priorities

Comment No.

30



Enforcement Priorities <enforcementpriorities@noaa.gov>

Fwd: comments on NOAA's Draft Enforcement Doc.

1 message

Lesli Bales-Sherrod <lesli.bales-sherrod@noaa.gov>
To: EnforcementPriorities@noaa.gov

Fri, Dec 30, 2011 at 10:23 AM

Comment # 30

----- Original Message -----

Subject: comments on NOAA's Draft Enforcement Doc.

Date: Sat, 24 Dec 2011 09:59:51 -0500

From: Chris Koenig [REDACTED]

To: lesli.bales-sherrod@noaa.gov

Dear Lesli:

I read NOAA's Draft Enforcement Priorities Document, so this message has my comments on the document and suggestions on how surveillance and enforcement can be improved.

I noticed that Marine Protected Areas were not explicitly included in this document, although "protected areas" within National Marine Sanctuaries were. As you know there are many Marine Protected Areas (MPAs) that are not in any of the 13 Marine Sanctuaries. These areas should also receive attention from NOAA Enforcement, as many contain breeding populations of economically important species, such as groupers and snappers which are important to our nation's economy. And they are important in terms of protection of critical spawning habitat, endangered or threatened species and biodiversity.

My colleagues and I have done extensive research within no-fishing MPAs of the northeastern Gulf of Mexico, specifically Madison Swanson and Steamboat Lumps MPAs. These two reserves (each over 100 square nautical miles in size) were set aside in 2000 by NMFS and the Gulf Council primarily to protect grouper spawning aggregations. Yet, during all the time these areas have been closed, enforcement by the US Coast Guard has not been sufficient to keep poachers out. Vessel Monitoring Systems (VMS) now required on all commercial fishing vessels (started in 2007) of this region has helped, but has not stopped poaching within the reserves. Poachers started illegal fishing at night which we detected by using acoustic monitoring devices moored on grouper spawning sites-- the Coast Guard was clearly unaware of this illegal activity. We presented our information of night-time illegal fishing to the Coast Guard and they subsequently caught several poachers during stepped-up night-time surveillance. According to the Coast Guard, these illegal fishing vessels were both high-end recreational vessels (not required to have VMS) and non-licensed commercial vessels which transferred their illegal catches to licensed vessels once they were outside of the reserves.

The Coast Guard (CG) now tells us that they monitor the reserve at night as well as in the day, but CG officials said that before we detected poachers fishing several times per week on or near the spawning sites in 2008 and 2009, so I am not confident that illegal fishing has stopped. Further details of this issue can be found in our research report to NOAA Project Report No. NA07NMF4330120, entitled, "Protection of grouper and red snapper spawning on shelf-edge marine protected areas of the northeastern Gulf of Mexico: demographics, movement, survival, and spillover effects. by CC Koenig and FC Coleman.

There are other even larger MPAs located on the southern West Florida Shelf (e.g., the Tortugas MPA) that also need strict enforcement. Our experience with working in and around Madison Swanson and Steamboat Lumps MPAs for nearly 10 years suggests that surveillance and enforcement of those reserves is likely to be wanting. And what guarantees are there that illegal fishing is not going on in any MPA?

Our method of deploying acoustic monitoring devices (recorded times and duration of near-field boat traffic) in critical habitat was highly efficient, continuous, and successful in detecting illegal fishing, especially at night. This simple idea of listening for vessel traffic on critical sites could be extended to include radar. I am told that the US Navy has the technology to deploy submersible surveillance buoys containing radar and acoustic capabilities. These buoys could be reeled up and down--while up, they would transmit data via satellite to a monitoring station, similar to the way VMS data are transmitted. This way, monitoring of no-fishing zones could done continuously with little cost, as compared to CG surveillance by planes or cutters which is intermittent and costly.

Thus, I think there is a dire need for NOAA enforcement to work closely with the US CG to come up with surveillance and enforcement tactics/methods that are based on modern technology, including satellite transmission of surveillance data from remote devices. I don't know if such methods are already in place, but I do know that they were not used in Madison Swanson when I was doing my research there, even though the CG assured me that no illegal fishing in the reserve was taking place. My simple check on their surveillance methods revealed gaping holes, and I can only expect that the same surveillance holes exist in other MPAs.

I hope my experiences and comments are helpful in developing a successful enforcement document for NOAA.

Best wishes,

Chris

Christopher C. Koenig, Ph.D.

FL

#30

Enforcement Priorities

Comment No.

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Tracy – Below are a few comments regarding the Draft NOAA Enforcement Priorities for which your office requested comments. I have received input from Gulf Council members and staff.

There was general consensus that the document should serve as an effective guide to future law enforcement activities. The Draft is comprehensive in that it indicates all the major areas that OLE must address as part of its charge and its obligations under NOAA. However, it may be an overly generalized document that may not prove to be particularly useful when NOAA Law Enforcement tries to prepare its operation plan that presumably will accompany this document at a future date. An improvement in the draft would be to indicate changes over previous OLE priorities and why these changes are necessary.

I hope these comments will help you in the final preparation of your Enforcement Policies. Please contact me if you have any questions regarding these comments or if you need further elaboration.

Thanks for your efforts in NOAA Law Enforcement. Hope to see you at a Council meeting sometime soon.

Steve

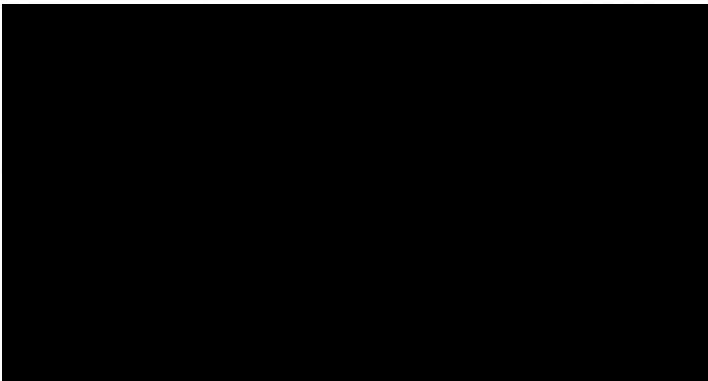
Stephen A. Bortone, Ph.D., Executive Director

Gulf of Mexico Fishery Management Council

2203 North Lois Avenue, Suite 1100

Tampa, Florida 33607 USA

Comment # 31



Enforcement Priorities

Comment No.

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AT-SEA PROCESSORS ASSOCIATION

Partners for Healthy Fisheries

www.atsea.org

January 5, 2012

Tracy Dunn, Acting Deputy Director
NOAA's Office of Law Enforcement
8484 Georgia Avenue, Suite 415
Silver Springs, MD 20910

Comment # 32

Re: Draft Fishery Enforcement Priorities

Dear Director Dunn:

We are writing on behalf of the At-sea Processors Association (APA) to comment on the draft set of enforcement priorities that your office released for public comment on November 8, 2011.

APA is a fisheries trade organization that represents the owners and operators of large-size catcher processor vessels that primarily participate in the Bering Sea pollock fisheries. Collectively, our member vessels harvest approximately half of the quota in the Bering Sea pollock fishery—the largest fishery in the United States. To a lesser extent, some of our member vessels also participate in the Pacific Whiting (hake) fishery that is prosecuted off the coasts of Oregon and Washington in the Pacific Northwest.

Generally speaking, APA supports the Draft Enforcement Priorities that your office is proposing and appreciates the opportunity to provide some input into them before they are finalized. We are particularly pleased to see that, among other things, the priorities include special reference to the need to implement effective compliance and enforcement plans to “support catch share management”, including observer programs to “support accurate, objective data collection and reporting”.

Each of our members participates in at least one and in some cases two catch share programs (e.g., of our member vessels participate in the Pollock Conservation Cooperative in the Bering Sea pollock fishery; and several also participate in a similar harvesting cooperative in the Pacific Northwest whiting fishery). Each of our member vessels carries two federal fishery observers on all of their fishing trips in the federally managed fisheries off Alaska and the Pacific Northwest. We can attest to the importance that timely, accurate and reliable data collection plays in the day-to-day management of such harvesting cooperative catch share programs and the invaluable role that observer monitoring and enforcement play in the collection of that data.



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We would note, however, that some catch share programs involve smaller vessels than the ones our members operate; and that, in at least some cases, deployment of observers on the smallest of such vessels may be problematic. In those cases where a vessel engaged in a federal water catch share program is either too small or otherwise incapable of carrying an observer to monitor its fishing activities, the enforcement priorities should seek to ensure that such vessels are required to carry vessel monitoring (VMS) systems or some other electronic monitoring (EM) device. This would ensure that some level of catch monitoring/data collection is generated from such vessels; and that even the smaller vessels are operating in compliance with area boundaries, open/closed area regulations, seasonal closures and/or other such restrictions on fishing activity in waters under NOAA's enforcement jurisdiction.

Finally, we note the comments submitted by the North Pacific Fishery Management Council re the proposed expansion of compliance assistance to the whale watching/marine mammal viewing industry. We concur with the Council's concerns that the expansion of NOAA's enforcement activities to include monitoring of the whale watching and marine mammal viewing industry might stretch resources to the point that federal fishery enforcement objectives would be jeopardized. This is particularly bothersome in view of the increasing budgetary constraints under which the agency is likely to be operating in coming years.

Thank you for the opportunity to present these comments. If you have any questions concerning the issues discussed herein, please feel free to give me a call.

Sincerely,

Stephanie D. Madsen

Stephanie Madsen, Ex. Director
At-sea Processors Association

Enforcement Priorities

Comment No.

33



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmfc.org

Paul J. Diodati, (MA), Chair

Dr. Louis B. Daniel, III, (NC), Vice-Chair

John V. O'Shea, Executive Director

Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015

January 6, 2012

Tracy Dunn, Acting Deputy Director
NOAA Office of Law Enforcement
8484 Georgia Avenue, Suite 415
Silver Spring, Maryland 20910

Comment # 33

Dear Mr. Dunn,

I am writing on behalf of the Atlantic States Marine Fisheries Commission to offer our comments regarding the Draft NOAA Enforcement Priorities. We concur with the focus on the broad categories of Sustainable Fisheries and Safe Seafood. Given their economic importance to coastal communities and the need to establish and maintain healthy stocks, protecting domestic fisheries should be a high priority.

We were pleased to see the important role OLE intends to place on compliance and strongly agree with the program goals of protecting the resource and ensuring a level playing field for harvesters. The program needs to include pro-active engagement with the regulated community to promote compliance, as well as effective monitoring and enforcement to ensure that happens.

Given the limited resources within OLE, cooperation and coordination with other state and federal enforcement entities should be one of OLE's highest priorities. The collective goal should be to develop a team and strategy that helps set local priorities and optimizes the respective expertise and capabilities of all the agencies. Regional enforcement objectives/priorities should consider both the status of the stock, as well as the value of the fishery. Commission species such as tautog, winter flounder, Atlantic striped bass, and American lobster are examples of fisheries falling into these categories.

Finally, NOAA OLE has been an active participant in and supporter of our Commission's Law Enforcement Committee. We recommend OLE continue to give that engagement a high priority, ensuring state and federal efforts optimize their contribution to our fishery management goals.

Thank you for the opportunity to comment. I applaud OLE efforts to reach out to the public and entities such as our Commission for their input in developing your law enforcement priorities. Your mission and role in fishery management is important; without compliance, our fishery management plans cannot be effective in restoring and maintaining stocks. We stand ready to help you in your work.

Sincerely,

Paul J. Diodati
Paul J. Diodati

** Sent by Meredith Wilson
Exec. Assistant*

cc: Law Enforcement Committee
ASMFC Commissioners

Enforcement Priorities

Comment No.

34

1
Sea Turtle Restoration Project
P. O. Box 681231
Houston, Texas 77268
January 7, 2012

Acting Deputy Director Tracy Dunn
NOAA Office of Law Enforcement 8484
Georgia Avenue, Suite 415
Silver Spring, MD 20910

Comment # 34

RE: NOAA's Enforcement Priorities Public Comments Solicited November 8, 2011

Dear Deputy Director Dunn:

The Sea Turtle Restoration Project appreciates the opportunity to respond to NOAA's invitation announced November 8, 2011, to comment on law enforcement policies to protect sea turtles and other marine resources.

Turtle Island Restoration Network sponsors environmental initiatives that target critical issues facing the oceans and all who rely on them, the oldest of which is the Sea Turtle Restoration Project. For the past twenty-one years, the Sea Turtle Restoration Project (STRP) has worked persistently and successfully through grassroots and policy-maker education, consumer empowerment, strategic litigation and by promoting sustainable local, national and international marine policies to save one of the oldest, most mysterious, most endangered species on the planet: sea turtles. STRP has offices in Houston, northern California, and Costa Rica and an international community of more than 50,000 people who support our work through contributions and activism.

The tragedy of the Deepwater Horizon oil spill brought many weaknesses and failings to light pointing out the need for review of all NOAA law enforcement practices and policies. In addition, there were many instances when the Endangered Species Act was far from a priority. As a result, unknown numbers of sea turtles died during the burning large areas of oil in the Gulf following the spill and hundreds more in Mississippi waters when shrimp fishermen were able to fish without working Turtle Excluder Devices (TEDs) with little, if any, law enforcement to hold them accountable.

Having been involved in the initial campaign to get TEDs placed on shrimp trawls over 20 years ago, we find it particularly disappointing to observe the decay of concern for sea turtles by NOAA in the Gulf of Mexico. The Freedom of Information Act memos that another conservation organization obtained from NMFS clearly show that NOAA law enforcement officers wanted to do their jobs and recognized that shrimp fishermen were finding many ways to foil authorities. Shrimp fishermen using skimmers have long had their way catching and killing sea turtles. Skimmers must have TEDs! Timed tows

have always totally ineffective with no one able to enforce times. The State of Louisiana continue to ignore federal law by not allowing their state law enforcement to board boats and look for TEDs in their state waters. This unbelievable situation makes a sham of efforts by other states to implement and enforce TED use.

The NOAA Fisheries document asking for public input reveals that the agency has known that problems exist but has done little or nothing about them. We agree that the following NOAA priorities show what must be done and immediately:

- Helping the fishing industry understand and follow regulations that support sustainable fish stocks and a sustainable fishing industry
- Implementing compliance and enforcement plans for catch share management
- Monitoring fish product imports for compliance with domestic and international laws and regulations
- Protecting marine resources in National Marine Sanctuaries
- **Protecting marine mammal and endangered species by enforcing bycatch reduction, gear, and closed area regulations**
- Supporting observer programs, which collect critical scientific data about fish stock status, bycatch, and fishery interactions with protected species

There are other actions that need to be taken to protect sea turtles. More National Marine Sanctuaries should be established and protected swimways designated to protect and benefit migrating sea turtles. The Kemp's Ridley Recovery Team has not moved to protect this most endangered sea turtle in the world by designating the Texas coast as critical habitat.

In August 2010, research completed by the Lenfest Ocean Program which is managed by the Pew Environmental Group cited major problems in enforcement strategies such as a variety of illegal fishing activity which continues because "Deterrence is minimal – the risk of being caught and the penalties assessed once caught are relatively low." The document recognizes that the US Coast Guard's high rates of compliance are much higher than researchers' surveys. It is well known that fishers know when USCG is near because their ships are well-marked and visible from long distances. By the time a shrimp boat is boarded to check its TEDs, corrections or adjustments can be made by the crew to show compliance.

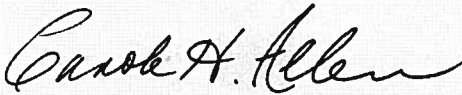
The Lenfest studies states that "illegal fishing is likely a significant problem in U.S. commercial fisheries, and current enforcement strategies need improvement. The results suggest that enforcement agencies could become more effective by correctly identifying actual compliance rates, developing effective deterrence strategies, targeting chronic violators and expanding successful enforcement programs."

Fishing without TEDs is a major problem for the existence of all sea turtles which is compounded by lack of consistent law enforcement. NOAA revealed their awareness of all the flaws and problems in its policies in its news release of November 8, 2011. Ignoring the Endangered Species Act and allowing sea turtles to die because commercial

fisheries are politically powerful is disappointing, unethical and undoubtedly illegal. We expect changes and improvements that reflect the goals and intentions of the Endangered Species Act. Protection of sea turtles has slipped to an incredible low with fishermen catching and killing sea turtles with little worry of detection and less concern about prosecution and meaningful penalties. Louisiana is able to have its way with the federal TED law making their state waters a safe haven for shrimpers without TEDs. Corrections and improvements must be made.

We have the option of delivering hundreds of e-mails to your desk if that is warranted, but it seems that NOAA already knows what must be done to protect sea turtles. We are waiting for positive changes. We are sending these comments by FAX and trust that positive changes will be announced before the beginning of the 2012 shrimping season.

Sincerely,



Carole H. Allen
Gulf Office Director
Sea Turtle Restoration Project-Texas

Enforcement Priorities

Comment No.

35

RECOMMENDATIONS

DISTANCES AND INTERACTION

Recommendation #1

Comment # 35

It is unlawful:

- to approach within 500 meters of a whale (the buffer zone), except as otherwise provided;
- to turn in any manner to intercept a whale within 500 meters;
- not to depart immediately from a buffer zone, except as otherwise provided;
- to change or interfere with direction, behaviour or movement of any whale;
- to harass any whale;⁴²
- to exceed a speed of 7 knots when within 800 metres of any whale;⁴³ or
- to whale watch when sunlight, weather or sea conditions make it difficult to perceive whether one is compliant with the above provisions.⁴⁴

⁴² The above recommendation is largely modelled on section 12.05 of the Massachusetts State Regulations discussed below. In South Africa, the regulations stipulate that disturbing or harassing of a whale includes approaching it within 300 meters. See p. 133, *A Review of Whale Watch Guidelines and Regulations Around the World, Version 2009*, Carole Carlson, College of the Atlantic, Bar Harbour, Maine, online (Hereinafter referred to as the Compendium.)

⁴³ The *Grice Bay Guidelines* require a vessel to slow down to 7-8 knots at 800 m or upon entering designated slow areas. See Compendium, at p. 40. The *US Whalewatching Guidelines for the Northeast Region including the Stellwagen Bank National Marine Sanctuary* sets a maximum vessel speed of 7 knots when within .5 mile (805 metres) of whales. The maximum speed is 13 knots when 1-2 miles away from whales and 10 knots when .5-1.0 miles away. (NOAA - National Marine Fisheries Service & National Ocean Service, Compendium, p. 158.) The *Best Practices Guidelines of the Whale Watch Operators – North West* requires a vessel approaching within 1/2 mile (880 yards) of a whale to gradually reduce speed such that vessel speed is no more than 7 knots at 1/4 mile (440 yards) off or closer. This speed transition shall also be observed when disengaging the vicinity of whales. (Compendium, p. 164) The *Saguenay-St. Lawrence Marine Park Act* requires a vessel that unexpectedly encounters an endangered marine mammal at less than 400 metres to reduce speed to the minimum speed required to manoeuvre the vessel (Compendium, p. 47). *Chile's Guidelines for Watching Blue Whales* (endorsed by the Chilean Navy) require vessels within 500 metres of whales to reduce speed to no faster than the slowest animal or group of animals in the vicinity (Compendium, p. 56).

⁴⁴ The Azores regulations forbid night observation of whales (Compendium, at p. 28). The *US Whalewatching Guidelines for the Northeast Region including the Stellwagen Bank National Marine Sanctuary* requires vessels to stop

*occur to a particular segment of a population, or to a significant number of individuals within a population.*⁵¹

And of course, an adequate buffer zone is necessary to reduce noise impacts, which threaten the viability of orcas, as discussed above.

Recommendation #2

- **Vessels, engines and other equipment must be designed, maintained, and operated during whale watching to reduce as far as practicable adverse impacts on whales and their environment;**
- **Vessel operators should be aware of the acoustic characteristics of the target species and of their vessel under operating conditions; particularly of the need to reduce as far as possible production of potentially disturbing sound;**
- **Vessel operators must avoid sudden changes in speed, direction or noise.**⁵²

Concerns over the impact of noise on whales are relatively uncontroversial. Episodic as well as constant noise can disturb and even injure whales. Marine vessels represent part of this problem. As stated in the Department of Fisheries and Oceans proposal for revised Marine Mammal Regulations, "excessive engine noise may interfere with the ability to locate prey or communicate with other members of the population."⁵³

Paying particular attention to the needs of killer whales, as cited in the introduction and reproduced here for convenience, the recovery strategy for northern and southern residents describes the impacts of noise as follows:

⁵¹ Compendium, p. 55.

⁵² Modelled after the International Whaling Commission's General Principles for Whale Watching: Compendium, at pp. 75-76, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>..

⁵³ Consultation Workbook Amending the Marine Mammal Regulations, March 2005, online: <http://www-comm.pac.dfo-mpo.gc.ca/pages/consultations/marinemammals/MMR%20Consultation%20Workbook%20Pacific%20Final%20II_TC.pdf>.

shall not make loud or disturbing noises near marine mammals – they have acutely sensitive hearing.”⁵⁸ A Mozambique Protocol stipulates that operators should “Minimize noise disturbance by maintaining a slow, steady speed.” It goes on to say, “Do not approach dolphins/whales with small power craft i.e. jet skis.”⁵⁹ Guidelines in Guadeloupe are consistent with the above recommendations; they suggest that operators keep vessels in good technical and mechanical condition, maintain them regularly, and use engines fitted with noise reduction devices.⁶⁰ Numerous other jurisdictions also explicitly address the issue of noise.⁶¹

Recommendation #3

Vessels shall make all approaches from a parallel direction, slightly from behind and not directly from the rear or head-on. Vessels may not drift down on whales.⁶²

With the exception of a few whale species, a vessel should approach any whale parallel and slightly behind and leave in a similar fashion. Jurisdictions throughout the world adopt this approach. For example, regulations in New Zealand as well as guidelines in Canada, Norway, and the Galapagos require this style of approach for orcas and other whales.⁶³ This recommendation is particularly important if the 500 meter buffer zone is not implemented.

⁵⁸ Compendium, at pp. 107-08, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁵⁹ Compendium, at p. 97, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁶⁰ Compendium, at p. 73, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁶¹ See Compendium for examples: Chile at pp. 56-59, the Galapagos at p. 70, Norway at pp. 119-20, Philippines at pp. 128-129, South Africa at p. 135, the United Kingdom at p. 143, and Canada’s Johnstone Strait at p. 36; online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁶² Modelled on South African regulations, Marine Living Resources Act, 1998 (Act No. 18 of 1998) - Regulations in Terms of Marine Living Resources Act, 1998 shown in Compendium at p. 135, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁶³ Compendium, at pp. 102, 37, 121 and 70 respectively, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>

Recommendation #4

1. **Vessels that encounter whales must not call other boats to the area.**⁶⁴
2. **When multiple vessels are at the same observation site:**
 - **Avoid any boat position that would result in encircling the whale(s).**
 - **Minimize the time spent and the number of vessels with any one group of whales. Limit viewing time to 30 minutes at the allowable 500 meters and then move out to allow other vessels access to good viewing positions. Coordinate activities by maintaining contact with other chartered operators and ensure that all operators are aware of the whale watching regulations.**
 - **Respect the same regulations that apply when only one vessel is watching whales.**⁶⁵

The impact of a group of vessels can be far greater than that of a single boat. Whales can more easily be encircled or forcibly dispersed as the number of vessels in a given area rises.⁶⁶

*During periods of high boating activity in the summer months, disturbance may occur from vessel congestion, impairing the ability of whales to move freely and/or forage effectively. Physical disturbance can be caused by boat or air traffic close to whales, especially during certain behavioural states such as feeding or beach rubbing.*⁶⁷

To manage this, numerous jurisdictions establish rules around the number of vessels that can view whales at the same time. For example, the Norwegian guidelines cap the number of boats, regardless of size, at three.⁶⁸

⁶⁴ Modelled after the British Virgin Islands Guidelines. See Compendium, at p. 34, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁶⁵ Modelled after guidelines for the Johnstone Strait area in British Columbia (Compendium, at p. 37). This is not inconsistent with the Azorean guideline which states: No more than 3 vessels may be inside an area 500 m around an individual or group of whales. Compendium at p. 30, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁶⁶ As stated in the preamble to the Canary Islands Regulations, Compendium at p. 52, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁶⁷ SARA Rcvry for N&SKW 2008 at p. 51.

⁶⁸ Compendium at p. 121, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

Communication between boats is another important aspect of ensuring safety and minimum impact on whales. Regulations in the Canary Islands require that two or more vessels approaching the same animals "must communicate amongst themselves in order to coordinate the approaches and maneuvers in a way to minimise repercussions to the animals."⁶⁹ Another option with regulating communication would be to stipulate that vessels that encounter whales are not allowed to call other boats to the area, as found in the British Virgin Islands' guidelines.⁷⁰ This may be controversial in British Columbia, where scouts locate whales early in the morning and notify other boats of their location in vast numbers.⁷¹ One article states, "for maximum exposure and greater tourism gratification, the commercial whale watching fleet shares information, which is often broadcast widely over marine radios. In some cases, the whale watching vessels are assisted by spotters, which keep an eye out for orcas."⁷²

Though not recommended in this report, if regulated distances are shorter than 500 metres, fewer vessels should be allowed within that distance. For example, the Azores regulation states:

The observation of whales by groups of vessels obeys to the following:

- **No more than 3 vessels may be inside an area 500 m around an individual or group of whales;**
- **The precedence of observation is by arrival order in the approaching area or by the vessels proximity to animals that surface at a distance below 500 m from any given boat;**
- **The vessels must be parallel between themselves and position in a sector 60° behind the animals;**
- **Approach maneuvers must be coordinated via radio by the first vessel entering the approach area to reduce impact on the animals' behavior;**

⁶⁹ Compendium at p. 54, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁷⁰ Compendium at p. 34, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁷¹ For example, the company Vancouver Whale Watch states on their website, "We work with a network of whale watching operators and share sighting information this gives us a sighting success rate of about 90%." <http://www.vancouverwhalewatch.com/faq.html>.

⁷² Group is trying to keep boaters from disturbing orcas; [Final Edition] Jan Westell. Delta Optimist. Delta, B.C.: Jul 21, 2004 pg. 5.

- Each vessel can stay inside the approaching area of 500 m for a maximum of 15 min after which it must exit the area; during the same trip it cannot approach the same group of animals;
- If the animals dive during the observation period of 15 min, the observation period restarts but the vessel loses precedence over the others.⁷³

Similarly the Code of Ethics that apply in the Bay of Fundy have low distance requirements, 100 meters, but only allow two vessels to view a whale or group of whales from that distance.⁷⁴

Finally, the question of regulating boat speed in and around whale zones needs to be carefully addressed. Increased boat speed increases both sound output and sound frequencies, which interfere with whale echolocation and communication.

Of course, the above recommendations would require increased enforcement capacity, which will be addressed below.

Recommendation #5

No commercial or recreational whale watching should be conducted on board aircrafts since they may disturb whales and dolphins due to their speed, noise, shadow, or downdraft in the case of helicopters.⁷⁵

When operating at an altitude of less than 600 meters, no aircraft shall be closer than 500 m horizontally from a point above any marine mammal unless in the process of taking off or landing.⁷⁶

⁷³ Compendium at 30, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>. Also, see Bay of Fundy at p. 36 and others.

⁷⁴ Compendium at 36, online, http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf.

⁷⁵ Chilean Guidelines. See Compendium at p. 57, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>. Numerous guidelines and regulations reflect this point.

⁷⁶ Dominica Draft Codes of Conduct, Compendium at p. 62, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>. In Canada aircraft are governed by Transport Canada and amendments put forward contemplate barring an altitude of lower than 1000 feet.

Several jurisdictions have restrictive legislation regarding the use of aircraft above and around whales.⁷⁷ According to the existing B.C. – Washington Guidelines, which require aircraft to remain at 450 m or higher, “[t]he droning of an airplane engine and especially the beating of a helicopter rotor will be detected by whales near the surface.”⁷⁸

ZONING

Recommendation #6

The Marine Mammal Regulations should stipulate discrete areas in the marine environment as vessel “no go zones” to protect known habitat of particular importance. Zoning should be adopted using the following wording:

*Vessels, including those used for commercial operators such as whale watching or other tours, are prohibited from the area of X, comprising Y to Z in its northern reaches, and from A to B in its southern reaches, navigation is only allowed along the outer edge of the zone, with no stopping permitted except in the case of an emergency.*⁷⁹

The Marine Mammal Regulations need to identify discrete areas in the marine environment as vessel “no go zones” marked by GPS and land coordinates to protect known habitat of particular importance, and the orcas that rely on that habitat, as well as to ensure that there are places of refuge for marine mammals. These could be especially useful in areas where it is very difficult for boat

⁷⁷ For example, Section 18 of the SAGUENAY-ST. LAWRENCE MARINE PARK ACT SOR/2002-76 20 February, 2002 states, “No person shall fly an aircraft over the park at an altitude of less than 2,000 feet (609.6 m) from the surface of the water or take off or land in the park unless authorized to do so by the Minister under subsection 10(1) of the Act. Compendium at 47, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁷⁸ Existing B.C. – Washington Guidelines, Compendium at p. 39, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁷⁹ Sample wording for a zoning provision modelled after the Mexican proposed regulation. See Compendium at p. 92, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>. Regulations would need to be worded according to the physical features of the area in question.

Such zones would be a certain distance off shore and from one another. Limits on time, the number of boats in an area, the number of zones visited per trip and the number of boat trips per day could all help to more easily ensure that whales are given a reasonable opportunity to rest. In recognition of the relative knowledge of official whale watch operators, particularly in comparison with pleasure boaters, such zones could be made available only to licensed whale watch operations. However, it may be more desirable to allow anyone to enter this zone.

PERMITTING/LICENSING

Recommendation #7

Before issuing a permit to commercial whale watching and tour operators, the [appropriate decision-maker] shall be satisfied that there is substantial compliance with the following criteria:

- a) That the commercial operation⁸⁷ should not have any significant adverse effect on the behavioural patterns of the marine mammal to which the application refers, having regard to, among other things, the number and effect of existing commercial operations;**
- b) That it should be in the interests of the conservation, management, or protection of the marine mammals that a permit be issued;**
- c) That the proposed permit contains adequate conditions and provisions to protect orca from disturbance and provide them with adequate rest;**
- d) That the proposed operator, and such of the operator’s staff who may come into contact with marine mammals, have the experience and training with marine mammals prescribed in the regulations.**
- e) That the proposed operator, and such of the operator’s staff who may come into contact with marine mammals, should have sufficient knowledge of the local area and of the sea and weather conditions;**

⁸⁷ To ensure a level playing field, “commercial operation” must be defined to include both whale watch companies and other tour operators, including charters and marine wildlife tours.

- f) That the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should not have convictions or penalties for offenses involving the mistreatment of animals;
- g) That the commercial operation should have sufficient educational value to participants or to the public.⁸⁸

Similar permitting/licensing provisions have been in place in New Zealand since 1992. South Africa also has a very extensive permitting structure that actually preceded the industry and was therefore able to impose quite strict and cautious requirements.⁸⁹ The above permitting recommendation could ensure that operators have the requisite knowledge to navigate safely in marine waters without disturbance, as well as recognize and interpret marine mammal behaviours to avoid any problems. These provisions also require operators to consider and implement educational and conservation components to their programming, given that most players seem to recognize the educational value of whale watch and other tour operators. These businesses could help increase awareness and respect for our marine life and people's interest in the protection of orcas and other marine mammals.⁹⁰

Permitting marine tour operators can be advantageous if such a program provides optimal protection for orca. Permits could be used to limit whale watch and other marine tour activities by stipulating days, times, locations, and allowable noise levels.⁹¹ The advantage of such structured rules is that they are clearer and simpler to enforce. If operators are found with clients on no-watch days, at no-watch times, or in no-go zones, they are quite likely to be in violation of their license.

⁸⁸ New Zealand Marine Mammals Protection Regulations 1992, Compendium at p. 101, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁸⁹ Compendium at p. 136, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁹⁰ See Association website for more information: <http://pacificwhalewatch.org/>.

⁹¹ The recovery strategy for resident orcas discusses impacts of noise at specific decibel levels: SARA Rcvry for N&SKW 2008 at p. 29. Also discussed is the United States' review of sound regulation.

Recommendation #8

All companies must provide Weekly Marine Wildlife Reports when requested by authorized agencies. These reports must include information requested on standardized data collection forms (prescribed by regulation), including the number of trips, species encountered, etc.

Operators have an unmatched opportunity to contribute to research and conservation efforts by keeping a weekly log of marine wildlife seen. These reports would be submitted at least annually, but could be requested at random by officials a limited number of times per year to ensure their maintenance.

Recommendation #9

Permit violations should be punishable by fine, suspension, or cancellation.

Criteria for determining the severity and appropriate punishment for violations must be clear to officials and operators. Operators could be required to report all violations, their own or others that they observe on the water, including by pleasure boaters. This would allow for more open communication and understanding of the rules, and would show where more education is needed. If desired, permit-holders could be required to undergo randomized inspection.⁹²

Recommendation #10

No person shall transfer a permit except in accordance with section X.

A permit expires on the earliest of

- (a) the expiry date stated in the permit, including any instance when the ownership of a marine tour business or a shuttle service is sold or otherwise transferred to another person, if the permit in respect of that business or service, as the case may be, is transferred in accordance with section X;**

⁹² For an example see s.7 of the *Saguenay-St. Lawrence Marine Park Act* in the Compendium at p. 44, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

(b) the date of cancellation, if any, of the permit; or

(c) where the ownership of a marine tour business or shuttle service is sold or otherwise transferred to another person, the date of that transfer, if the permit in respect of that business or service, as the case may be, is not transferred to that other person in accordance with section X.⁹³

This provision is designed to control the licensing of excessive numbers of commercial whale watching boats. In each location licence issuers would determine the maximum allowable number of boats, based on the "carrying capacity" of the region. If the current number meets or exceeds that maximum, authorities must stop issuing licences. Permit transfers should not be allowed. Only once existing operators have fallen below the agreed upon maximum number will licences be again issued. This approach minimizes adverse impacts on existing operators but allows control over future growth of the tour operator industry, including whale watching. Controlling the transfers of licences, except in accepted instances, could also help to reduce the number of operators and vessels over time, if desired. The *Saguenay-St. Lawrence Marine Park Act* provides an example of provisions designed to ensure appropriate control of licence transfers.⁹⁴

Alternatively, boat traffic could be limited by prohibiting all licensees from operating for one or two days a week. If weekends are particularly busy, then perhaps Mondays could be a day off both for operators, whales and other wildlife. That measure should also reduce the number of recreational boats that are able to locate the whales on "off" days, thus providing whales with respite.

⁹³ Sections 8-10 of the *Saguenay-St. Lawrence Marine Park Act* in the Compendium at p. 45, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

⁹⁴ A number of issues arise around licensing; one is the potential benefit to the licence holder. In the Saguenay, licensed operators have permission to be closer than non-licence holders. Without that distinction there may be difficulty in determining which vessel is actually a commercial whale watching operator and therefore has to have a licence versus the pleasure craft that has passengers in it. As well, in trans-boundary waters the issue of licensing US vessels to conduct a business in Canada may have immigration implications.

Recommendation #11

No new whale watching activities should be authorised if there are threats of significant adverse impact on the behavioural patterns or physiological well-being of marine mammals.⁹⁵

Determining carrying capacity for marine wildlife viewing, or the level of such viewing that remains within sustainable limits could be difficult, but is important to prevent negative impacts on marine mammals. Given how well-developed the existing whale watching and marine tour industry in B.C. is, it may not be fair to diminish the number of existing operators; however limiting further expansion, and lowering the number of operators if and when they leave the market, may be important. Even if current science does not indicate that such limits are conclusively necessary, the precautionary principle warrants a cap on further expansion.⁹⁶

Recommendation #12

Every person purchasing whale watch or other marine tour activity service must pay a five percent (5%) fee that is dedicated to the Marine Boater Education and Monitoring Fund. This new fund will be administered by a prescribed authority or designated conservation group.

Experts agree that education of the boating public is essential to ensure the protection of orcas. Currently a number of non-profit organizations spend a great deal of time on coastal waters, speaking directly with vessel operators about safe marine behaviour, including appropriate behaviour around orcas. However, funding for such efforts is neither stable nor sufficient. The need for more education capacity is undisputed, even by government officials, as mentioned

⁹⁵ Modelled after guidelines from The Agreement on the Conservation of Cetaceans in the Black Sea Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS), Compendium at p. 27, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>. ACCOBAMS is a cooperative tool for the conservation of marine biodiversity in the Mediterranean and Black Seas. Its purpose is "to reduce threats to cetaceans in Mediterranean and Black Sea waters and improve our knowledge of these animals."
<http://www.accobams.org/>

⁹⁶ As the ACCOBAMS guideline states, "The precautionary principle should be employed in every instance (meaning that the benefit of any doubt should be given to the animals)," Compendium at p. 2, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

above.⁹⁷ A regulation that required a small surcharge on the services of whale watching and marine tour operators could provide stable funding for on-the-water education and monitoring programs. Were there an annual boat registration regime in place, registration fees could similarly include an education surcharge.⁹⁸ See the education section below for further discussion of opportunities for critically-important marine wildlife education.

EDUCATION

Recommendation #13

All marinas, fuelling stations and boat rental facilities shall display a poster that is visible to patrons, users, and visitors.

- **The poster shall explain regulations X-XX and any other rules specific to the area in plain language and necessary graphics, include a phone number for reporting violations, and shall not include anything else.**
- **A pamphlet that presents the same information should also be available and prominently displayed.**
- **The poster and pamphlets shall be issued by the appropriate authority or designated conservation group.⁹⁹**

Most stakeholders seem to agree that education is an important component of protecting marine mammals generally, and orcas in particular. While licensed whale watch and tour operators must be aware of these regulations, it is equally

⁹⁷ SARA Rcvry for N&SKW 2008 at p. 26-27.

⁹⁸ For example, s. 4 of the *Wildlife Act's Freshwater Fish Regulation* provides that part of the fishing license fee is allocated to habitat conservation. It reads, "The fee for a permit issued under section 3 is \$25 and the habitat conservation trust fund surcharge to be paid is \$5." B.C. Reg. 261/83. As a slightly different example, "the State of Maryland applies a 5% excise tax at the point of sale [for boats] which is paid into the "Waterway Improvement Fund". This fund "provides financial support to local governments, the Department of Natural Resources and federal agencies" for [services] including: clearing of debris from navigable waters, installation of marine sewage pump-out stations, and other beneficial marine projects for the "general boating public." *Traffic Congestion and Human Waste Dumping in the Saanich Inlet*, Researcher: Tim Thielmann, Articled Student, Oct 10.08, note 93 at p. 24-25

⁹⁹ Note that poster and pamphlet distribution already occurs to some extent on a voluntary basis through various boater education programs.

important that pleasure boaters and others understand the rules of marine activity.

Throughout the summer the coastal waters of B.C. are full of visitors exploring the area. Thus, education is necessary year after year. While education on the water and elsewhere is perhaps most important, visual representations provide an additional opportunity for education, and add another set of educated eyes on the water.

Recommendation #14

A licensee shall display a poster at each of the offices and on each licensed boat and shall ensure that the poster is visible to patrons and potential patrons.

- **The poster shall explain regulations X-XX and any other rules specific to the area in plain language and necessary graphics, include a number to call if violations are seen, and shall not include anything else.**
- **A pamphlet that presents the same information should also be available and prominently displayed.**
- **The poster and pamphlets shall be issued by the appropriate local authority.¹⁰⁰**

Similarly, if a significant part of tour operators' mandate is to educate the public, part of that education should be about the legal rules for responsible enjoyment of marine wildlife. The displays on boats particularly provide an opportunity for patrons to engage with the rules and ask questions as they are viewing wildlife. In cases of flagrant disregard for regulations, patrons may be empowered to ask questions and even report violations.

In addition, existing education programs should be reviewed in order to improve education of the public about marine mammals. For example, there is a requirement under current law to have a Pleasure Craft Operators Card (a boat

¹⁰⁰ Modelled after Payday Loans Act, 2008; ONTARIO REGULATION 98/09. O. Reg. 98/09, s. 14. An appendix to the regulation would include a plain language version along with appropriate graphics such as those found in the numerous guidelines, including those that apply in B.C.

driver's licence) -- the required reading material for that Card should have a marine mammal viewing component. In addition to including materials about marine mammals in all Power Squadron materials and programs, educational materials should be distributed to public marinas, Coast Guard and Coast Guard Auxiliary, contractors working for parks and other government agencies, as well as all private and commercial boat operators.

ENFORCEMENT

Recommendation #15

Enforcement resources and efforts to protect marine mammals should be redoubled, and minimum fines should be instituted.

Government should study enforcement under the *Saguenay-St. Lawrence Marine Park Act*, under which enforcement officials perform regular patrols to ensure compliance, particularly in areas most often frequented by whales. This patrolling -- along with distribution of a guide that explains the main provisions -- has been credited with improving the public's knowledge about appropriate boating behaviour.¹⁰¹

In addition, in light of the relatively light penalties that have been imposed for those found guilty of disturbing whales,¹⁰² a minimum fine of \$10-20,000 would likely create greater compliance with the law.

Recommendation #16

Where initial information is provided, or a legal information is laid, by way of a person not representing government relating to an offence under this regulation, the payment of the proceeds of any penalty imposed arising from a conviction for the offence shall be made

¹⁰¹ Modelled after the *Saguenay-St. Lawrence Marine Park Act*, Compendium at p. 50, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

¹⁰² In both *R. v. Fossum* and *R. v. Maya*, cited above, the fines were only \$6,500.

(a) one half to the person; and

(b) one half to the Minister or, where all of the expenses incurred in the prosecution of the offence are paid by a government, to that government.¹⁰³

A lack of resources currently restricts the activities of government enforcement staff. As a result, much disturbance of whales goes undetected and unrestrained.

On the other hand, non-profit organizations and pleasure boaters already make frequent reports about suspected violations. These "citizen enforcers" could provide extensive monitoring and enforcement assistance, if motivated and trained.

Mandating that 50% of a recovered fine be given to the person who provided key information or laid the legal information (charged the offender), would provide an incentive for organizations and others to act as "eyes and ears on the water". It would encourage groups to participate more actively in the monitoring process, and give them resources to be more effective "watchdogs". Better funded and trained citizen groups should be able to provide better information to enforcement officials.¹⁰⁴

¹⁰³ This private prosecution provision is modelled after Fishery (General) Regulations, SOR/93-53 (under the *Fisheries Act*), s. 62, but is changed to also reward those who supply initial information to the Crown. Under the Fishery Regulation, citizens may charge polluters for offences such as depositing deleterious substances in to fish habitat. Online:

<<http://canlii.org/eliisa/highlight.do?text=fisheries&language=en&searchTitle=Search+all+CanLII+Databases&path=/en/ca/laws/regu/sor-93-53/latest/sor-93-53.html>>.

¹⁰⁴ Some may question the effectiveness of providing compensation to those that lay informations, given that most environmental private prosecution informations in B.C. have been stayed in recent years (a notable exception is Alexandra Morton's). See a blog article on the recent history of private prosecutions in B.C.: West Coast Environmental Law, *Alexandra Morton breathes new life into private prosecutions*, April 27, 2010, online: <http://wcel.org/resources/environmental-law-alert/alexandra-morton-breathes-new-life-private-prosecutions>).

However, increasing political attention on environmental violations, the current case referred to in the article above, the Department of Justice's potentially increased willingness to take on cases, and improvements to the quality of evidence brought could improve this situation. In addition, compensating people that provide the initial information for a successful Crown prosecution should make this proposed provision into a real incentive for citizens to help enforce the law. Note another potential example to be considered: Ontario's *Environmental Bill of Rights*, S.O. 1993, c. 28, s. 84(1) states: "Where a person has contravened or will imminently contravene an Act, regulation or instrument prescribed for the purposes of Part V and the actual or imminent contravention has caused or will imminently cause significant harm to a public resource of Ontario, any person resident in Ontario may bring an action against the person in the court in respect of the harm and is entitled to judgment if successful." Potential remedies

Currently citizen enforcers have varying levels of resources and knowledge about what is required to prove that a violation occurred – including, for example, identity of the vessel operator and, under the Marine Mammal Regulations, proof that the whale or other marina mammal was disturbed. Enhanced funding under this recommendation and the previous recommendation for a 5% surcharge should enable better training and resourcing of those key citizen groups.

EXCEPTIONS

Recommendation #17

Nothing in these regulations shall apply to persons, vessels, aircraft, or vehicles rendering assistance to stranded or injured marine mammals or during emergency situations (search and rescue, vessel breakdown, etc.).¹⁰⁵

under this section include injunctive relief and order for a restoration plan: s. 93(1), online: <http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_93e28_e.htm#BK105>.

¹⁰⁵ New Zealand, s. 17 Marine Mammal Protection Regulations. Compendium at 101, online, <http://iwcoffice.org/_documents/sci_com/WWREGS%202009%20final.pdf>.

Enforcement Priorities

Comment No.

36



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January 9, 2012

Acting Deputy Director Tracy Dunn
c/o NOAA's Office of Law Enforcement
8484 Georgia Ave., Suite 415
Silver Spring, MD 20910

Comment # 36

Dear Mr. Dunn:

The South Atlantic Fishery Management Council (Council) welcomes the opportunity to comment on NOAA's Draft Enforcement Priorities and wishes to submit the following for consideration:

- The proposed consultative process that NOAA OLE is proposing to employ to establish priorities is commendable. Stakeholder input is an important component of any priority-setting exercise; especially when needs vary widely, as they do when it comes to enforcement of fisheries regulations.
- Under National Priority 1, NOAA proposes to focus on two enforcement programs: supporting catch shares management and monitoring imports. In the South Atlantic, one catch shares program currently exists (the wreckfish Individual Transferrable Quota (ITQ) program) that only includes a few participants. Over the past few years, the South Atlantic Council explored the development of catch shares to manage the snapper grouper fishery. However, this has thus far met with strong opposition from the industry. Another catch shares program (for the golden crab fishery) is currently under development, but it will also involve a few participants.
- The two additional national priorities that NOAA's enforcement programs propose to support -- compliance assistance and observers -- are very important. The Council strongly supports the focus on compliance assistance, as fishery regulations in the South Atlantic region have become very complex in recent years. Unfortunately, compliance is undermined by limited enforcement. Fishermen know that minor violations will likely not be enforced due to very limited assets in the region, thus creating an environment that supports non-compliance.

Regional Fishery Management Councils may find themselves discouraged from proposing regulations that will be difficult to enforce; not because the capabilities of the enforcement

entities are lacking, but because sufficient capacity is. The Council would urge NOAA to first strengthen enforcement capacity across the board rather than focus efforts on programs such as catch shares that may or may not come to fruition in many regions of the U.S.

Similarly, an observer program is currently not in place in the South Atlantic region. Focusing support on observer programs may benefit the South Atlantic region in the future but the establishment of such a program should first be among NOAA's priorities for the South Atlantic region.

- The Council concurs with the proposed regional priorities in support of sustainable fisheries and safe seafood and in support of recovered and healthy marine and coastal species and healthy habitats.
- In addition, the Council would like to submit the following recommendations that directly apply to the enforcement needs of the South Atlantic region:
 - Increase the number of prosecutorial attorneys so that not only major violations can be prosecuted
 - Investigate potential effect and ability of changing civil provisions in MSA to criminal
 - Increase efforts to publicize successful major and minor cases
 - Introduce use of Automatic Identification System (AIS) for monitoring fishing vessel activity
 - Address boundary placement - how much of an enforcement challenge are irregular boundaries for closed areas?
 - Increase training of state law enforcement by NOAA OLE by scheduling regular classroom and at sea sessions
 - Increase funding for Joint Enforcement Agreements (JEA)
 - Facilitate interpersonal relationships between law enforcement agency personnel through informal meetings or joint training programs (e.g., USCG has open training sessions annually)
 - Increase the frequency of multi-agency details
 - Create a joint law enforcement forum for sharing information and coordinating enforcement actions
 - Create centralized database for regulation information
 - user friendly (google earth) mapping of protected areas
 - all regulations in one place (SAFMC, NMS, FMPs)
 - Use social media to disseminate information

Thank you again for the opportunity to comment.

Sincerely,



David Cupka
Chairman

Enforcement Priorities

Comment No.

37



William Chandler, VP for Government Affairs

January 8, 2012

Tracy Dunn, Acting Deputy Director
NOAA Office of Law Enforcement
8484 Georgia Ave., Suite 415
Silver Spring, MD 20910

Comment # 37

Dear Mr. Dunn:

This letter constitutes public input from Marine Conservation Institute pertaining to the document, *Draft NOAA Enforcement Priorities*, released by the National Oceanic and Atmospheric Administration (NOAA) on November 8, 2011. Marine Conservation Institute is a 501(c)(3) organization dedicated to saving our planet's living oceans. Over the past few years, our organization has worked closely with federal and state law enforcement partners on regional law enforcement challenges, and has worked to see that laws, management plans, and regulations are enforced fairly and effectively to achieve optimal results in ocean protection.

The *NOAA Draft Enforcement Priorities* document (Draft Priorities) represents public input solicited by NOAA from a wide range of public and private stakeholders during fall of 2010. Public comments fell into two broad categories, sustainable fisheries and protected resources and places. These two categories were then used as a framework to define NOAA's law enforcement priorities at the national and regional levels. We agree with this general approach. We also support NOAA's efforts to revise and streamline their operations and protocols for more effective and efficient maritime law enforcement. However, we have concerns that certain important priorities have been omitted from both the national priorities and their supporting regional equivalents.

National Priority 1: Support Sustainable Fisheries and Safe Seafood

Sustainable fisheries

Enforcement of federal fishing regulations is undoubtedly the largest and most complex of NOAA's law enforcement objectives. There are so many important problems in this sector that identifying the highest priorities is a real challenge. Overall, Marine Conservation Institute agrees with the national and regional

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priorities as stated, but feels that the southeast regional priority is incomplete. Reducing and preventing overfishing of the snapper-grouper species complex is critical for the southeast region, but the priority as stated (monitor red snapper and grouper catch share programs) does not recognize the significant take of these reef fish by recreational vessels and head boats. Recreational quotas for reef fish in the south Atlantic region are almost equal to the commercial annual catch limits. The red snapper commercial fishery has been closed in the Gulf of Mexico since 2009, but recreational landings are still permitted and totaled nearly 4.5 million pounds in 2011. This represents 112% of the annual recreational quota, and far exceeds the take by commercial vessels before the closure was enacted.

National Priority 2: Support Recovered and Healthy Marine and Coastal Species and Healthy Habitats

While the national and regional priorities recognize requirements to protect endangered and threatened species, there are some omissions related to NOAA's responsibility to manage and protect large marine areas that are not part of the National Marine Sanctuary System. In general, law enforcement of all federal marine protected areas needs a better-supported effort from NOAA. Examples include: the deep coral habitat area of particular concern in the southeast region that protects large tracts of pristine deep coral reefs; the Aleutian Islands habitat conservation area, which includes some of the most diverse coral and sponge areas in US waters; and the recently established US Marine National Monuments in the Western and Central Pacific Ocean. We offer the following comments on National Priority 2 for both protected species and places, with particular focus on the Pacific Islands region.

Protecting Species

Marine Conservation Institute is pleased to see that protection of threatened and endangered marine life is a priority, especially for the Pacific Islands Region where the protection of Hawaiian monk seals is paramount to the species' survival. The Hawaiian monk seal population numbers around 1,000 animals, making it one of the most endangered marine mammals in the world. In recent years there have been several cases of confirmed or suspected intentional killings of monk seals by humans. NOAA's Office of Law Enforcement, Pacific Islands Division, should increase efforts to investigate and prosecute unlawful harassment and killings of monk seals. Furthermore, it is important for NOAA to publicize arrests and prosecutions as much as possible in order to maximize their deterrence effect on future criminal acts. We are pleased to see that the Pacific Islands Division's regional priorities include efforts to minimize harassment of other protected marine mammal species, such as humpback whales.

One notable omission to the Southeast regional priority list is the West Indian Manatee. These highly endangered marine mammals have their largest population (approximately 3000 individuals) in Florida; and despite the implementation of slow speed 'manatee zones', boat strikes are still the greatest cause of manatee injury and death.

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Protecting Places

The Draft Priorities cite the National Marine Sanctuaries Act as a guiding legislative authority, and list protection of National Marine Sanctuaries as a national and regional priority. Protection of our National Marine Sanctuaries is a worthwhile goal; however, by focusing only on the National Marine Sanctuaries System, NOAA is overlooking its important obligation to protect some of our nation's most pristine and fragile marine ecosystems, especially the recently created US Marine National Monuments in the Western and Central Pacific Ocean.

The Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments were established in January 2009 by Presidential Proclamations 8335, 8336, and 8337 under authority of the Antiquities Act of 1906. The proclamations name the Secretary of Commerce (and through delegation of responsibility, NOAA), in consultation with the Secretary of the Interior, as the primary manager of marine fisheries within large portions of the monuments. The three monuments are spread across the Western and Central Pacific and comprise over 190,000 square miles of protected emergent land, coral reef, and ocean habitat. These areas contain some of the last pristine marine ecosystems on the planet, and harbor countless protected marine species including dolphins, whales, turtles, seabirds, fish, invertebrates, and corals.

The Pacific monuments are also located in, near, or around parts of the ocean that are undergoing intense levels of exploitation by domestic and foreign fishing fleets in search of tuna and other highly migratory species. These pristine areas are threatened not only by this potential exploitation of targeted species, but by potential collateral damage associated with fishing activities, including unintentional bycatch, vessel groundings, pollution, and vessel-borne invasive species. Because of the gravity of these threats, NOAA should take a more proactive approach to monitoring and protecting the monuments.

Our Recommendations

We recommend NOAA consider the inclusion of recreational snapper-grouper fisheries and protection of endangered marine mammals among its priorities for the Southeast Region. We also recommend the inclusion of the Pacific monuments as a priority in the Pacific Islands Region. The three Pacific monuments represent some of our greatest national treasures. The need for their protection is underscored in the presidential proclamations and in NOAA's own strategic goals of sustaining biodiversity, healthy ocean and coastal habitats, and productive ecosystems. Although fishing regulations are still in development for the monuments, once the regulations are released, protecting the monuments should become a much larger priority for NOAA Office of Law Enforcement. We strongly recommend

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that NOAA update its Draft Priorities to incorporate the marine national monuments as an important enforcement priority at both the national and regional levels.

Sincerely,

WJ Chandler

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Enforcement Priorities

Comment No.

38



U.S. Department of Justice

Tracy Dunn
Acting Deputy Director
NOAA Office of Law Enforcement
8484 Georgia Ave., Suite 415
Silver Spring, MD 20910

JAN 09 2012

Comment # 38

Dear Acting Deputy Director Dunn:

We at the Department of Justice welcome this opportunity to submit brief comments on the Draft National Oceanic and Atmospheric Administration (NOAA) Enforcement Priorities, dated November 8, 2011. We are proud of our long tradition of working together with NOAA law enforcement to protect the Nation's marine resources and look forward to our continuing partnership. We also fully support NOAA's national priorities of supporting sustainable fisheries, safe seafood, recovered and healthy marine and coastal species and healthy habitats.

Our one area of comment involves the listing of regional supporting priorities. It appears to us that the attempt to list specific types of cases may result in too restrictive an allocation of resources in light of the recognition that regional priorities and regional fisheries and coastal issues differ markedly throughout the country. We would urge a broader acknowledgment of the need to permit regional discretion to allocate limited enforcement resources to advance the national goals as they are impacted by practices in the various regions.

Again, we welcome the opportunity to comment on NOAA's Draft Enforcement Priorities and are happy to discuss these issues with NOAA as we work together to protect our nation's natural resources.

Sincerely,

Ignacia Moreno
Assistant Attorney General for the
Environmental and Natural
Resources Division

Michael Cotter
United States Attorney, District of
Montana, Chair of the Attorney
General Advisory Committee
Environmental Issues Subcommittee

Enforcement Priorities

Comment No.

39

**NMFS Office of Aquaculture
Comments on FY12 Draft Enforcement Priorities**

The NMFS Office of Aquaculture (AQC) appreciates the opportunity to comment on these FY12 Draft Enforcement Priorities. In June 2011 NOAA and DOC released new Aquaculture Policies that reaffirm NOAA and DOC's commitment to support aquaculture as an important component of our safe and sustainable seafood supply (see http://aquaculture.noaa.gov/us/aq_policies.html). A priority of NOAA's policy is to "[d]evelop synergies among NOAA's fisheries management, **enforcement**, financial assistance, aquaculture, seafood inspection, Coastal Zone Management, National Marine Sanctuaries, and National Sea Grant programs to rebuild wild fish stocks and support alternative or supplemental economic options for fishermen." Furthermore, in federal waters and pursuant to the regulation of aquaculture under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), it is a goal of NOAA to "coordinat[e] permit review, approval, and **enforcement**, both internally and with other Federal agencies, to ensure compliance with existing regulatory requirements and to foster an efficient and timely regulatory process."

As a way of implementing the enforcement-related priority in the NOAA Aquaculture Policy, AQC requests that the Office of Law Enforcement establish a plan to ensure proper enforcement of aquaculture regulations under the MSA. This includes aquaculture under existing regulations (e.g. live rock aquaculture, domestic culture of MSA species such as Atlantic salmon or cod or the import of cultured fish) or in the near future, such as the regulations being developed by the Southeast Regional Office to implement the Gulf of Mexico Fishery Management Plan for Aquaculture. In certain cases, wild stock management measures, such as Federal regulatory restrictions implemented under the MSA, may require that products of commercial aquaculture be distinguishable from wild harvest products to ensure that wild organisms are not being illegally marketed as aquaculture products, or vice versa, and to maintain the integrity of fishery management plans. The challenge for NMFS is to work with the Fishery Management Councils, commercial harvesters, aquaculture producers, and seafood dealers to design effective and efficient enforcement measures that do not put unnecessary or unfair burdens on aquaculture or wild harvest interests.

Constituent requests for NMFS review of proposed aquaculture initiatives are currently dealt with on an ad-hoc basis. Such requests are expected to rise with the growing emphasis on strengthening the domestic seafood supply in the United States. When the culture activity involves a species with existing Federal management measures and associated regulations under the MSA, questions arise particularly with respect to fishery enforcement. Enforcement related guidelines, therefore, are a critical, proactive step that the agency could take in its overall strategy of enabling the development of sustainable marine aquaculture while ensuring compliance with existing regulations.

Requests from constituents for guidance and/or waivers of certain requirements for marine aquaculture activities have focused on regulatory restrictions (e.g., minimum size requirements, closed seasons, etc.) in place for wild stock management under the MSA. Currently, these issues are handled on a case-by-case basis, but work needs to be done to make handling of these issues more consistent and streamlined across the NMFS regions.

NMFS Office of Aquaculture suggests the following specific edits:

- ***Edit to:*** National Priority 1: Support Sustainable Fisheries and Safe Seafood;
 - NMFS AQC agrees with the statement that “[d]omestic demand for safe seafood and recreation opportunities continue to grow. These demands will far exceed domestic supply from wild stocks.” Domestic aquaculture also needs to be included as a solution to the seafood supply issue. This is consistent with the language in the NGSP and with the priorities of the Healthy Oceans Goal.

- ***Edit to:*** Regional Priority of “Expand contact with the regulated communities including compliance support, monitoring and inspections of regulated activity to identify problems, deter violations and detect violations requiring enforcement action.”
 - NMFS AQC recommends that the aquaculture industry be included in any efforts to help with “compliance support”, especially as NMFS takes on an increased role to regulate aquaculture under the MSA. AQC recommends adding language in this section to:
 - Address the need to draft regulations with “up front” input from NMFS OLE to enhance enforceability and enforcement capabilities –e.g., identification of inspection authority from harvester to dealer to end user; consider need for prioritizing by species depending on established parameters;
 - Establish consistent and transparent guidelines to inform NMFS decisions on how to regulate and enforce regulatory restrictions under the MSA that affect the production and transport of aquacultured products;
 - Consider relevance and applicability of Joint NMFS-State Law Enforcement Agreements (since aquaculture of MSA-managed species currently occurs primarily in state waters); and
 - Coordinate aquaculture enforcement-related concerns with the States, Fishery Management Councils, the Marine Fisheries Commissions, and other Federal agencies (e.g., Coast Guard, Customs, Interior, etc.).

Enforcement Priorities

Comment No.

40



Oregon

John A. Kitzhaber, MD, Governor

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NOAA
Office of Law Enforcement
Attn: Deputy Director Tracy Dunn
8484 Georgia Ave.
Suite 415
Silver Spring, MD 20910
RE: National Priorities

Dear Mr. Tracy Dunn:

The Oregon State Police Fish and Wildlife Division (OSP) and the Oregon Department of Fish and Wildlife (ODFW) appreciate the opportunity provided by NOAA to comment on NOAA's National Enforcement Priorities. The OSP, ODFW, and NOAA share critical responsibilities that are directed towards managing and protecting our nation's marine resources. These responsibilities have led to the development of successful and productive partnerships between the three agencies. The OSP and NOAA OLE continue to grow as enforcement partners through the Joint Enforcement Agreement (JEA). During the time period of Oregon's most recent two year JEA agreement, which expired on September 30, 2011, Oregon provided nearly 42,000 hours of enforcement directed at protecting marine resources, both in their marine and freshwater environments. These hours were funded in part by the JEA, but the majority of the work was state funded, utilizing the Fish and Wildlife Division's 117 uniformed officers. These uniformed officers continue to work with and support the role of NOAA OLE's Special Agents.

The ODFW and NOAA serve as co-managers of many of the marine resources that exist off of Oregon's coast, and those ESA listed species that migrate inland to freshwater areas as part of their lifecycle. These partnerships are never more evident than during the Pacific Fishery Management Council (PFMC) meetings held five times per year. It is at these meetings where critical decisions, related to both enforcement and management, are made and directed towards recovering, sustaining, and protecting West Coast marine resources.

The comments in this letter reflect the opinions of both the OSP and the ODFW towards NOAA's listed National Priorities found in the document "Draft NOAA Enforcement Priorities" dated November 8, 2011. The "Draft" Priorities were evaluated, in part, on the following criteria found in the above mentioned document:

- The potential effect and/or threat of non-compliance to the resource (high, medium, low);
- The status of the resource (e.g., endangered, threatened, depleted, overfished, overfishing occurring, etc.);
- Efforts to improve compliance;
- Opportunities for deterrence;
- Support for catch share programs;
- How enforcement allocates resources for requirements outside specific priorities;
- Best use of available resources

It is clear that National Priority One [Support Sustainable Fisheries and Safe Seafood] is directed towards enforcement of the Magnuson Stevens Act and associated regulations, while National Priority Two [Support Recovered and Healthy Marine and Coastal Species and Healthy Habitats] encompasses the Endangered



Comment #40

Species Act (ESA), Marine Mammal Protection Act (MMPA), and the National Marine Sanctuaries Act (NMSA). We believe that enforcement efforts directed towards ESA and Overfished species and habitat recovery (Priority Two) will eventually lead to sustainable fisheries and safe seafood (Priority One). As a result, we believe that the order of the priorities should be reversed. The following examination of the criteria NOAA wants its National Priorities to reflect also supports our reprioritization.

- The potential effect and/or threat of non-compliance to the resource: Clearly, there is not a more critical status applied to a species than an ESA listing. In many cases, the recovery of the listed species is dependent upon the effective enforcement of the laws and regulations protecting the species and its habitat. We cannot imagine a higher potential effect or threat of non-compliance to a resource than an ESA listed resource.
- The status of the resource: All marine species, ranging from healthy stocks to ESA listed, deserve and need protection. It is evident that NOAA rightfully believes that the status of a species has bearing on the level of protection it should receive. Once again, endangered and threatened species must be at the top of that list.
- The efforts to improve compliance: Efforts to improve compliance are measured in several ways, including enforcement effort and education/outreach. During the 2009-2011 JEA agreement time period, OSP spent 33,394 hours enforcing laws and regulations protecting ESA listed species and their habitat. This total was 4 times greater than OSP's efforts towards all other marine species combined.

The OSP and ODFW firmly believe that enforcement efforts directed at ESA and Overfished species and habitat recovery must be a higher priority than sustainable fisheries. The criteria set forth by NOAA support this assertion and, once again, we believe that supporting species and habitat recovery will lead to sustainable fisheries for all.

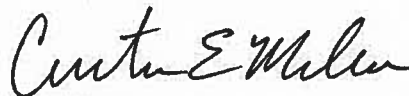
We also want to stress that the Recovered and Healthy Marine and Coastal Species and Healthy Habitats priority must place emphasis throughout the entire habitat range of the species, not just the marine and estuarine environments. In the Northwest, numerous ESA listed species including salmon, steelhead, green sturgeon, and smelt often migrate hundreds of miles inland to spawn and complete their lifecycle. The additional burden this places on enforcement is immense. In Oregon alone there are nearly 53,000 square miles of inland ESA critical habitat that require protection. Currently, the JEA funding OSP receives fails to meet the level of enforcement necessary to adequately protect these ESA and Overfished stocks. This funding shortfall must be made up with state funds. The cause of this shortfall is, in part, a result of the JEA funding matrix historically ignoring the inland enforcement work that is required to protect migrating anadromous species. It is hoped that National Priorities which stress the importance of this work will result in a more equitable distribution of JEA funds.

The OSP and ODFW sincerely appreciate the efforts NOAA is undertaking to solicit input from stakeholders throughout the country. OSP and ODFW look forward to a continued healthy and successful partnership with NOAA as we partner together to protect our nation's marine resources.

Sincerely,



Richard Evans
Deputy Superintendent
Oregon State Police



Curt Melcher
Deputy Director
Oregon Department of Fish and Wildlife

Enforcement Priorities

Comment No.

41

DIRECTED SUSTAINABLE FISHERIES, INC.

A Consulting Company

Tracy Dunn, Acting Deputy Director
c/o NOAA Office of Law Enforcement
8484 Georgia Avenue, Suite 415
Silver Spring, MD 20910

Monday January 09, 2012

Re: NOAA Draft Enforcement Priorities for 2012

EnforcementPriorities@noaa.gov

To: Tracy Dunn,

Thank you for this opportunity for Directed Sustainable Fisheries, Inc., to submit this written comment about the NOAA Draft Enforcement Priorities for 2012 on behalf of our fishing community participants. I hope this comment finds you and yours doing well.

As you probably know, I taught the first shark fin ID class to NMFS and State Marine Patrol agents during August 1993 in Savannah, Georgia. Special Agent Paul Raymond was part of that outreach effort then, which will lead to my suggestion of a priority for this written comment. Later from 2006 to 2008, I helped teach nearly 46 workshops for the careful handling and release protocol for protected species such as sea turtles, sawfish and marine mammals. NMFS and State Marine Patrol agents were in attendance to several of these outreach efforts.

Outreach is important. Compliance guides are very important. Law enforcement being a good neighbor is extremely important, rather than seeing enforcement agents assuming that the fishing community is predominated by criminals. If anything tangible comes out of the negativity found with the last decade of NMFS law enforcement issues in regard to fishing communities of the United States, it will be that reaching out to the fishing community is the trail to blaze.

I am sure brighter minds than mine will have already weighed in to suggest many good choices for future growth of the relationships between NMFS law enforcement and the US fishing communities. Let us hope a better behavior pattern evolves sooner than later.

Thank you again.

Rusty

Russell Howard Hudson, President
Directed Sustainable Fisheries, Inc. (DSF, Inc.)
PO Box 9351
Daytona Beach, Florida 32120-9351

(386) 239-0948 Telephone
(386) 253-2843 Facsimile

Comment #41

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DSF2009@aol.com

DIRECTED SUSTAINABLE FISHERIES, INC.

A Consulting Company

DSF2009@aol.com

Saltwater Fisheries Consultant
Shark Specialist

Deep-Sea Fisherman and Shrimp Boat Captain

Recreational, For-Hire & Commercial Fishing Life Experience, 1959-2012

Retired 100-ton United States Coast Guard (USCG) Licensed Sea Captain

Seafood Coalition (SFC) member

National Marine Fisheries Service (NMFS) Highly Migratory Species (HMS) Advisory Panel (AP) commercial member

Atlantic States Marine Fisheries Commission (ASMFC) Coastal Shark (CS) AP Florida (FL) commercial & for-hire recreational member

Former South Atlantic Fishery Management Council (SAFMC) Marine Protected Area (MPA) AP FL commercial member

Former NMFS Atlantic Large Whale Take Reduction Team FL member (ALWTRT)

Former NMFS Bottlenose Dolphin Take Reduction Team FL member (BDTRT)

Current American Elasmobranch Society (AES) member

Participant, observer and/or contributor to US coastal shark stock assessments during 1992, 1996, 1998, 2001, 2002, 2005, 2006, 2007 and 2011

SouthEast Data, Assessment and Review (SEDAR) 11 (LCS), 13 (SCS), 16 (KM), 19 (RG/BG), 21 (LCS/SCS), 24 (RS) and SEDAR 25 (BSB/GT)

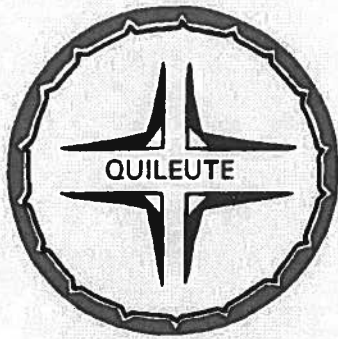
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PO Box 9351
Daytona Beach, Florida 32120-9351
386-239-0948 Telephone
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DSF2009@aol.com

Enforcement Priorities

Comment No.

42



Quileute Natural Resources QUILEUTE INDIAN TRIBE

401 Main Street • Post Office Box 187
LaPush, Washington 98350

Phone: (360) 374-5695 • Fax: (360) 374-9250



January 9, 2012

Tracy Dunn, Acting Deputy Director
NOAA's Office of Law Enforcement (OLE)
8484 Georgia Ave, Suite 415
Silver Spring, MD 20910

Re: Quileute Indian Tribe, Comments on "DRAFT NOAA Enforcement Priorities".

Dear Deputy Director:

The Quileute Indian Tribe's Department of Natural Resources (QNR) has reviewed the November 8, 2011 version of the DRAFT NOAA Enforcement Priorities. We appreciate the opportunity to provide comment on this document as we consider the role of NOAA's OLE a critical part of managing fisheries on the west coast. Along with the DRAFT document, staff also reviewed the "NOAA Enforcement Priority Setting Process" document as they are envisioned by our staff as being companion documents.

In the west coast region, the Washington coast is unique due to the status of the treaty tribes. Quileute Indian Tribe is one of twenty-two treaty tribes with secured treaty rights and co-management authority. In the marine environment this co-management authority is shared with Washington State (within state waters) and with several federal agencies out to the Exclusive Economic Zone. We understand that NOAA OLE seeks comments specific to the draft document, however, it is the background on which this document was built that gives us pause. We are disappointed that NOAA's National Law Enforcement Summit in 2010—the impetus for the DRAFT document currently under public comment did not include Quileute Wildlife Enforcement nor does the priority setting process list treaty tribes under *consultation*. As both managers and regulators of fishery activity in our Usual and Accustomed Fishing Areas (between 47° 31' 42" north latitude north to 48° 07' 36" north latitude out to the EEZ), it is our stand that OLE must coordinate its activities with us as it does with the other regulators in our region (Olympic Coast National Marine Sanctuary, US Coast Guard, National Marine Fisheries Service, US Environmental Protection Agency and Washington State). Federal agencies engaged in activities that can potentially affect treaty resources of a treaty Indian Tribe must consult with the affected tribe as described in Executive Order# 13175. This consultation must occur during the agency's planning process and prior to any actions.

Comment # 42

Specific to the document in which you seek comment: QNR staffs agree with the National Priorities #1 and #2, as they set the stage for both sustainable fisheries as well as safe seafood, we look forward to their further development in the future. It is the region specific priorities section in which we seek a dialogue with OLE in the near future. As stated in the document; the regional priorities listed in the document are not exhaustive, however since Quileute Tribe have not been part of the dialogue, we do not have the benefit of knowing what other regional priorities have been discussed for the Northwest.

We recommend prior to finalization this document, NOAA OLE articulates all priorities for each of the regions, and this transparency would benefit all who have not been present in the dialogue to date. We also ask that you take into consideration that the "NOAA Enforcement Priority Setting Process" be modified to be inclusive of OLE resources in the Northwest Region being dedicated to consulting with the Quileute Indian Tribe, Department of Natural Resources. Should you have any questions please contact our program Director Mel Moon at 360-374-3133.

Sincerely,

**Lonnie Foster, Policy Representative
Quileute Natural Resources Committee**

Enforcement Priorities

Comment No.

43



Enforcement Priorities <enforcementpriorities@noaa.gov>

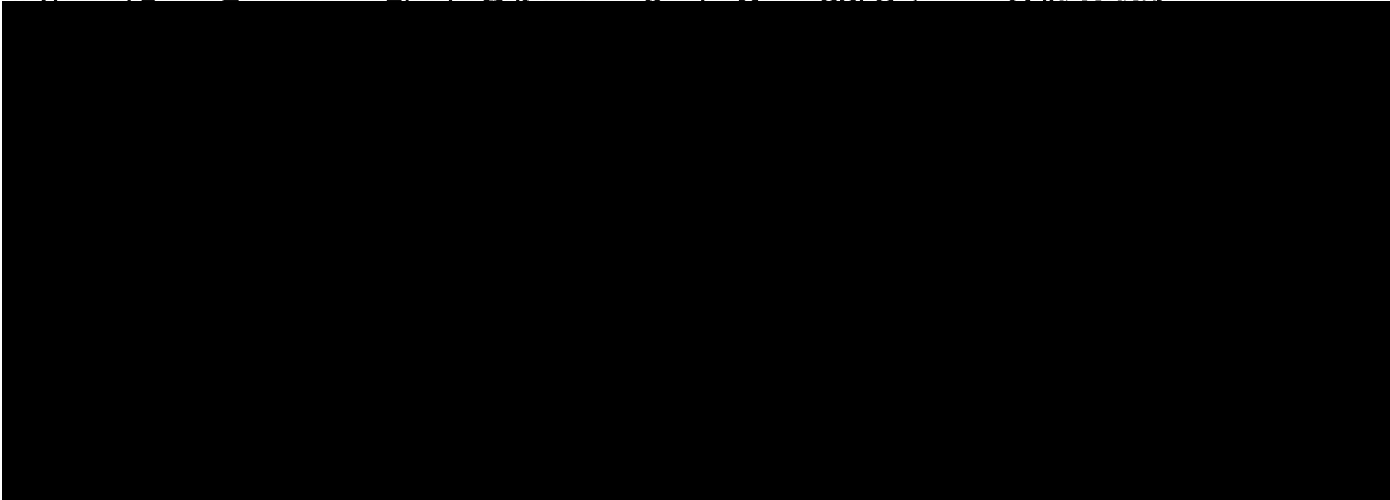
Draft NOAA Enforcement Priorities, Comment

1 message

Ronald Otto [REDACTED]

Mon, Jan 9, 2012 at 8:56 PM

To: EnforcementPriorities@noaa.gov, [REDACTED]



Tracy Dunn
Acting Deputy Director
NOAA Office of Law Enforcement/OLE

Re: Comments to Draft NOAA Enforcement Priorities

Comment #43

Dear Acting Deputy Director Dunn;

NOAA's Enforcement Priorities relate directly to the need for increasing NMFS' role in ESA enforcement for the California (SW) Division and prioritizing the ESA as it pertains to Western Placer streams. It is crucial that NMFS Enforcement representation in the Central Valley continue to work with community-based watershed groups to help keep a focus on ESA issues. This will occur through Community Oriented Policing and Outreach/Education, as well as assistance with intervention and collaborative efforts to achieve timely solutions-based results in safeguarding habitat and listed species. We believe that a high priority should be given to addressing ESA-related enforcement in the Central Valley/Placer County area. And we welcome the opportunity to offer comments supporting our belief that if NOAA and other Agencies will direct more attention to appropriate analyses and effective measures for enhancement of protected local anadromous fishery resources, a significant contribution to recovery of Central Valley resources will be made.

The precipitous decline of Central Valley/CV steelhead and other anadromous resources has been well documented, including the loss of vast amounts of historical habitat. Our Western Placer County, California foothill anadromous streams support protected CV steelhead in addition to Chinook salmon. A section of the *DRAFT NOAA Enforcement Priorities* that seems particularly germane to our western Placer streams is, *Regional Priorities Supporting Recovered and Healthy Marine and Coastal Species and Healthy Habitats* (p 6), *Expand compliance assistance, monitoring and enforcement actions...to protect endangered species*. The authors give an example for NW and SW Regions: "Habitat protection and inadequate water flow and/or barriers to fish passage in streams that impact migration or spawning." We believe the nexus is strong with our local anadromous streams.

Community interest in these streams is high as seen by recently-completed passage improvements at the

Lincoln Gaging Station on Auburn Ravine, and soon at the Hemphill diversion upstream, which will provide access to excellent spawning habitat. Citizen volunteer water testing and placement of fish screens in the Auburn Ravine are also being implemented. These projects are an excellent example of what effective Agency and community collaboration can accomplish. Although a number of other local streams show strong potential and are subject to restoration efforts, our comments will focus primarily on Auburn Ravine, which, with Coon Creek, is tributary to the Sacramento River near Verona.

Recent California Department of Fish and Game/CDFG sampling on upper Auburn Ravine near Ophir showed nearly 8,000 estimated steelhead trout per mile. (Navicky, *Summary of 2004 and 2005 fish community surveys in Auburn Ravine and Coon Creek, Placer County*) And considerable spawning habitat was documented for Auburn Ravine. (Jones and Stokes, 2004. *Salmonid Spawning Habitat Surveys for Placer County Streams*) The *Placer County Auburn Ravine/Coon Creek Ecosystem Restoration Plan, Streams of W. Placer County: Aquatic Habitat and Biological Resources, Literature Review* (p 21, item e) describes a fishery biologist's observation in lower Auburn Ravine of apparent half-pounder steelhead jumping at the face of the seasonal dam on the Aitkin Ranch in May. This and other documents also confirm impressive historical returns of salmon and steelhead to the Auburn Ravine. DFG has documented a fish taken (prior to listing) high in the Auburn Ravine as a steelhead/anadromous. (CDFG files)

We advocate greater attention to assuring year-round passage and adequate water flows which affect salmonid habitat, migration and spawning on Auburn Ravine; and we believe that NMFS California SW Division OLE should place a high priority in seeing that this occurs. For example: diversions near lower Auburn Ravine appear to limit upstream passage of Central Valley half-pounder steelhead, in addition to outmigrating Chinook and CV steelhead juveniles during a portion of the agricultural diversion season (~ April 15 to October 15). Agency staff suggest that studies of nearby Secret Ravine are analogous for juvenile steelhead and salmon presence and emigration timing in Auburn Ravine. The CDFG *Fishes in Secret Ravine* memo of 2003 demonstrated presence of juvenile steelhead and Chinook salmon in Secret Ravine during the agricultural diversion season. We believe that appropriate studies on Auburn Ravine would show need of both up- and downstream passage improvements at diversions in and near lower Auburn Ravine, et al.

Numerous Agency staff from CDFG, NOAA, FWS, DWR, Placer County, NGOs, and members of the public toured the Auburn Ravine on June 25, 2010. Coppin Dam, immediately below lower Auburn Ravine in the Eastside Canal, showed nearly all flows were being diverted, with what appeared to be a barrier to up- and possibly downstream fish passage. It has been suggested that at times *all* flows may be diverted at this seasonal diversion point. We are not clear why all or nearly all flows can at times be diverted and why sufficient by-pass flows are not required, nor do we understand why passage modifications are not in place. There are considerable flows within the drainage at this point. In addition to agricultural flows, natural springs and seasonal precipitation, effluent from wastewater treatment plants on Auburn Ravine and Coon Creek as well as dilution water contribute to their common drainage above and below this point. The diversion appears to be an unmitigated barrier to fish passage.

Beginning in the 1980s, we have had ongoing discussions with staff from CDFG, NOAA, FWS, SWRCB, DWR, Placer County, water and power agencies, several NGOs, and members of the community regarding how best to approach these issues. With heightened Agency and public awareness of the very troubled status of Central Valley steelhead and some Chinook salmon populations, along with what appear to be several areas of clear nexus with current regulatory goals and requirements, we believe the time is right to move forward.

We and others in the community stand ready to work collaboratively with NOAA and with others to obtain proper assessment and, as needed, successful year-round mitigation for Auburn Ravine/Coon Creek flow and barrier impediments to fish passage. Should increased staff assignment be needed by NOAA or others to address these regional concerns, we would be supportive.

Thank you for the opportunity to comment. Do not hesitate to contact us if you have any questions.

#43

Sincerely,

Ronald Otto

[Redacted]

[Redacted] CA [Redacted]

#43

Enforcement Priorities

Comment No.

44



**Western
Pacific
Regional
Fishery
Management
Council**

January 9, 2012

Tracy Dunn
Acting Deputy Director
NOAA's Office of Law Enforcement
8484 Georgia Ave., Suite 415
Silver Spring, MD 20910

Comment #44

Dear Acting Deputy Director Dunn:

The Western Pacific Regional Fishery Management Council offers the following comments on the NOAA's Draft National Enforcement Priorities.

Overarching Comments

1) The Draft Enforcement Priorities document lacks specificity and does not provide the public and regulated community any greater sense of understanding in terms of what NOAA has been enforcing or will be enforcing in the future. In other words, it appears NOAA is checking off a box with this document, rather than preparing a detailed document identifying the National priorities and associated issues. Furthermore, the Draft Enforcement Priorities does not provide any information on how NOAA's Office of Law Enforcement will work to accomplish these priorities nor identify any performance metrics.

National Priority 1: Support Sustainable Fisheries and Safe Seafood

2) It is unclear why NOAA chooses to prioritize enforcement of catch shares when the majority of the Nation's fisheries are not management under catch share programs. NOAA should emphasize that catch shares is one example of several established management measures, and list, along with catch shares, the many other management tools in place including ACLs, area and time closures, bag and size limits, gear restrictions, etc. All of these measures require comprehensive enforcement plans to support sustainable fisheries.

National Priority 2: Support Recovered and Healthy Marine and Coastal Species and Healthy Habitats

3) We support enforcement and monitoring of violations of the ESA that affect listed species; however, NOAA should actively work to assess the population status of protected species which may be at levels associated with recovery. For example, the Hawaiian green sea turtle and North Pacific humpback whale are believed to be recovered by many, including the International Union for the Conservation of Nature; however, NOAA has yet to consider removal

of these species from the ESA List. Removing such species, as available information likely supports, could reduce the enforcement burden associated with these species, thereby allowing monitoring and enforcement to be redirected at more pressing needs.

4) It is unclear on how NOAA balances the enforcement needs between sustainable fisheries and National Marine Sanctuaries and Marine National Monuments. For example, sanctuaries and monuments only represent a fraction of the U.S. exclusive economic zone (EEZ) and may or may not be experiencing impacts that warrant enforcement attention. Furthermore, the Draft National Priorities incorrectly states that the 13 sanctuaries and monuments encompass 150,000 square miles of ocean, whereas the Papahānaumokuākea MNM alone covers nearly 150,000 square miles. While enforcement of sanctuaries and monuments are important, the public should be made aware of which area NOAA will chose to spend more resources and time enforcing, i.e. sustainable fisheries vs. sanctuaries/monuments. In other words, are these priorities equal?

Supporting Priorities

5) The Draft Enforcement Priorities document lists "compliance assistance" as required to help the fishing industry understand and follow regulations. We take this to mean enhanced education and outreach efforts by NOAA OLE. We think comprehensive education and outreach is critical in promoting voluntary compliance of regulations. However, it is our understanding that NOAA is not providing adequate funding, or no funding at all, to some regional OLE offices to conduct education and outreach activities. How could compliance assistance be a supporting priority if it is not being adequately funded to the regional OLE offices?

Regional Priorities

6) The Draft Enforcement Priorities document correctly lists violations of international treaties or agreements regarding tuna fisheries as critical to the Pacific Island Region. However, we question the ability of the Pacific Island Region OLE to carry out this function as they do not have adequate funding, staff levels, or monitoring assets. It is our understanding that the NMFS Pacific Islands Regional Office has been funded a ratio of 17:1 as compared to the Pacific Islands OLE. Certainly the number of regulations and enforcement responsibilities has increased since becoming a NMFS region, however funding to the regional OLE has not similarly increased. With a US EEZ of 1.5 million square miles in the Pacific Islands Region, NOAA needs to provide more funding to the Pacific Islands Region OLE as this office likely has one of the largest responsibilities in the Nation in enforcing: a) domestic fishing regulations in Hawaii, American Samoa, Guam, Northern Mariana Islands, and the Pacific Remote Island Areas, b) monitoring illegal foreign fishing in remote areas of the US EEZ, c) regulations for two Sanctuaries and four Monuments, and d) ESA and MMPA violations on several listed species found in the region.

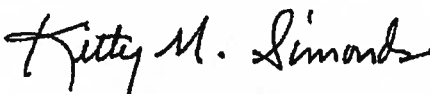
Conclusion

We appreciate NOAA's work to identify national enforcement priorities. Nonetheless, we believe the public would be better served if the final document provided more details related to

the national priorities as well as identifying steps on how NOAA will work to accomplish these priorities. We also want to conclude by stating that we believe Pacific Islands Region OLE has a good relationship with the regulated fishing community in the Western Pacific Region; however, we are concerned that this relationship could be jeopardized if that office is not provided adequate funding related to education and outreach to promote voluntary compliance. We also believe the Pacific Islands Region OLE should be provided more funding to adequately monitor and enforce the expansive and remote US EEZ in the Western Pacific Region. To this end, the Final Enforcement Priorities document could be enhanced from a thorough analysis of regional issues, including area of responsibility, number and scope of regulations, types of regulated fisheries, number of listed species, and number and size of sanctuaries and monuments in regions.

Thank you for your consideration of our comments and we look forward to seeing a more detailed final document.

Sincerely,



Kitty M. Simonds
Executive Director

Enforcement Priorities

Comment No.

45



Enforcement Priorities <enforcementpriorities@noaa.gov>

sportsman need a bycatch/possession amendment

1 message

a joiner [REDACTED]

Tue, Jan 10, 2012 at 10:35 PM

To: enforcementpriorities@noaa.gov, [REDACTED]

In order to keep sportsman's ethics, as the 99.9% governing value in sportfishing there needs to be an exception to the zero possession regulation when it come to the yellow eye and canary bottom fish along the mid to northern California coast.

It was extremely uncool and unethical to witness a seagull eat a yellow eye bottomfish, that died and floated to the surface even after three quality and acting in good faith under good sportsman's ethics, release attempts failed. Yes, surprisingly there is a learning cure to a successful desended release.

Attn; regulation making humans, do your job so ethical sportfisherman can do their's, amend the zero possession law, even just to a possession may occur only for mandatory surrender law or please contact me for more suggestions, I got a plethora of them.

regards, Andy Joiner [REDACTED]

Comment # 45

Enforcement Priorities

Comment No.

46

[REDACTED]

[REDACTED] FL. [REDACTED]

JANUARY 5, 2012

Dear NOAA,

Since Florida, my home state, is surrounded on three sides by large bodies of water and many estuaries and the Everglades Wetland Swamp, I would hope that NOAA would dedicate some of their resources [i.e. personnel and researchers] to this Area to preserve such endangered species as the Manatee, coral reefs off east coast of Miami, and further south along the Florida Keys islands, and to protect from pollution such estuaries as Naples Bay, and those mangroves already set aside as nature and bird sanctuaries. I know all Federal Dpts. are under budget constraints in this administration but to lose for future generations the natural beauty of these animals and habitat

would be a sin. And all these areas
 mention can and could be self sustaining
 as ~~most~~ are utilized as tourist attractions
 and our foreign visitors in the winter who
 range from German, Japan and South
 America to enjoy our sunny weather in
 the winter and could explore our natural
 resources also. For these reasons, I would
 hope that NOAA would either make Florida
 a separate service district or no more than
 a three state-wide designated service area.

Much like other states we have resources
 that are unique to our area and I
 believe should be maintained and
 budgeted properly for the protection and
 enjoyment of these natural resources.

Thank you for your consideration of these suggestions

Sincerely yours.

Mrs Alice K. Smith

Enforcement Priorities

Comment No.

47

Danny Park
[REDACTED]
[REDACTED] NY [REDACTED]

Dec. 01, 2011

National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW Room 5128
Washington, DC 20230

Dear Ms./Mrs./Mr. Director of NOAA

The purpose of this brief regarding enforcement of laws governing catches is to prevent overfishing in order to leave enough fish in the water to maintain the health of both the oceans and fishing communities for future generations. I urge you to enforce the law to manage overfishing.

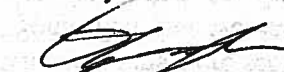
Due to the stagnancy of the economy, Government also concerted put efforts to increase fishing capacity such as favorable policies, loans, and subsidies spawned a rapid rise of big industrial fishing operations, which quickly supplanted local boatmen as the world's source of seafood. Therefore, ocean overfishing is occurred. Ocean overfishing is simply "the taking of wildlife from the sea at rates too high for fished species to replace themselves (overfishing, National Geographic)." The earliest overfishing happened in the early 1800s when humans were seeking for lamp oil and had serious consequence to the whale population. "Some fish that we eat, including Atlantic cod and herring and California's sardines, were also harvested to the brink of extinction by the mid-1900s (overfishing, National Geographic)." This profit seeking method that human was executing over the world's ocean created to access to broad selection of fish species at affordable prices. Then, many consumers were looking forward tuna and many good qualities of fish. Moreover, sushi market boomed in the United States and also other countries and its demand went up so quickly. Tuna was near extinct for some moment.

Therefore, government and fisheries made many profits while they were selling fishes with affordable price with many stocks. So, as they were selling many, many numbers of fishes in the oceans decreased and had difficulties to replace themselves which disruptive to the food chain and health of the ocean.

Thus, I suggest enforcing the law to manage overfishing with this particular option. I suggest you to investigate which species of fish are in danger and protect them from catches. Moreover, limit the catches with reasonable excuses. You could change over the world and the oceans with strict enforcement and could protect the oceans for future generations and the earth.

Last, I hope you to consider regarding my suggestion and email me before 12/2/2011. Thank you.

Sincerely




Danny Park

Comment # 47

Enforcement Priorities

Comment No.

48



* (Gerry Alexander): Hi, I am a member of sector in New England and our sector was very concerned when you stopped the dockside monitors - monitoring what the boat's taking out with - we're afraid cheating's going to go on, you know, all the (unintelligible) foreign stuff.

And to keep everybody on a level playing field we thought that was the best possible case scenario for us. And the new - I know that you've hired a bunch of new guys to be on the ground here in New England. Are there any else - check in boats and stuff now as of today?

Logan Gregory: Thanks, (Gerry) for the question. Yes, actually they are. We have a couple of - of course, it takes some time to train uniformed officers and agents for that matter on all of the finer nuances. So we have senior agents and officers training these folks and working with them on the docks and boarding these vessels.

So yes, they are there and they are working. They're working with our state partners and the Coast Guard. And I have heard that concern also with regard to the dockside monitoring. So hopefully, you know, as we bring more of a patrol officer presence to the docks in working with the state we can make up that slack and ensure that level playing field that you're talking about.

Enforcement Priorities

Comment No.

49

48 (continued)

(Gerry Alexander): Okay, all right. I just - you know, it - which after every trip we take out (unintelligible) and there's somebody - aboard out boat every trip. They've never seem to check the weights or anything like that of the fish that we have aboard so I'm nervous that, you know, things aren't being taken care of the way they should be, that's all. So I know, you know, the honest guys want a level playing field so that we can continue to be honest, you know.

Logan Gregory: Right.

Coordinator: To ask a question press star-1.

Lesli Bales-Sherrod: Thank you, (Gerry), for your question and also thank you for that comment. Like I said earlier, we are recording the call so we can capture this kind of feedback but we certainly would appreciate as an industry member if you want to submit any of your feedback to us in writing. And again, that's on our website and also I'll go over those options at the end of the day. But thank you for chiming up and saying that.

* (Jim Kendall): All right, thank you. Logan, my name is (Jim Kendall). I'm a former council member and a fisherman of 32 years and I've served on a variety of law enforcement committees and programs.

And one of the things I noticed in the document here is it doesn't seem to be specific - specifically addressed is the intent of violations. And I don't believe there has ever really been a true standard or point addressing that particular

Comment # 49

fact where the intent of the violation or the seemingly intent of the violation is recorded along with the citation.

Is there any possibility that we could look at and where obviously in one direction or the other make note of that because at some future point in time that would possibly have a value when you're discussing the violation itself and the consequences of it?

Logan Gregory: Right, thanks for the question and comment. Yes, and you basically said it there at the end, the intent really is going to go to the penalty because the majority of the regulations if not all of them, they don't require any specific intent for there to be a violation noted. But that being said, intent does weigh in as far as what the penalty may be assessed.

And that usually comes out in the investigative reports and the evidence collected by the officer or the agent on scene. The - maybe not as much intent but maybe why did you do this or, you know, for example, a boat that comes in with an overage whether the overage is out in the open or whether the overage is hidden in a hidden compartment, you know, that goes to intent, that goes to knowledge, that goes to, you know, what it is they're trying to do.

And that definitely does weigh in when it comes to the penalty portion of the violation and that's where the Office of General Council or the General Council Enforcement section comes in and when they weigh their penalty schedule out.

So that is taken into consideration. I realize it's not mentioned in the priorities but maybe we could put something in there that speaks a little bit to what the possible penalties can be and what are the aggravating factors for a penalty

and maybe what the mitigating factors for a penalty are as well. So thank for the point.

(Jim Kendall): Yes, and that's pretty much my point I guess is that it's basically silent on that and I think it shouldn't be, particularly any longer. A couple of examples are - where you could look at was the tuna that was recently caught off one our new (unintelligible) boats.

Obviously didn't seem to be any intent there nor was there any intent to hide the fact that he had one onboard. So I think something like that - by the weight of the violation or, you know, the incident where it came such a - you know, bright issue, it was easily addressed.

But some years ago I had a crewmember who actually saved a lobster claw aboard my boat when we were fishing. And it was a large claw and he thought it would make a good decoration if you had it cleaned and mounted like a lamp like they used to be, you know, a fairly large claw (unintelligible).

And Coast Guard boarded us and they found it and they told me that I had a problem and I found out who the crewmember was and we threw the lobster claw back over. There was no other mutilated lobsters on board.

I asked the Coast Guard officer if he would make a note of that on the back of the NOVA and he did. And I received a call about it but there was no further violation or consequences because of it. And I feel that it was basically because the Coast Guard officer did honor my request to say that there were no other lobster parts found and so for than so on.

So by being specific like that there was no loss of information between the Coast Guard boarding officer and when they got handed over to (NIFs). So I

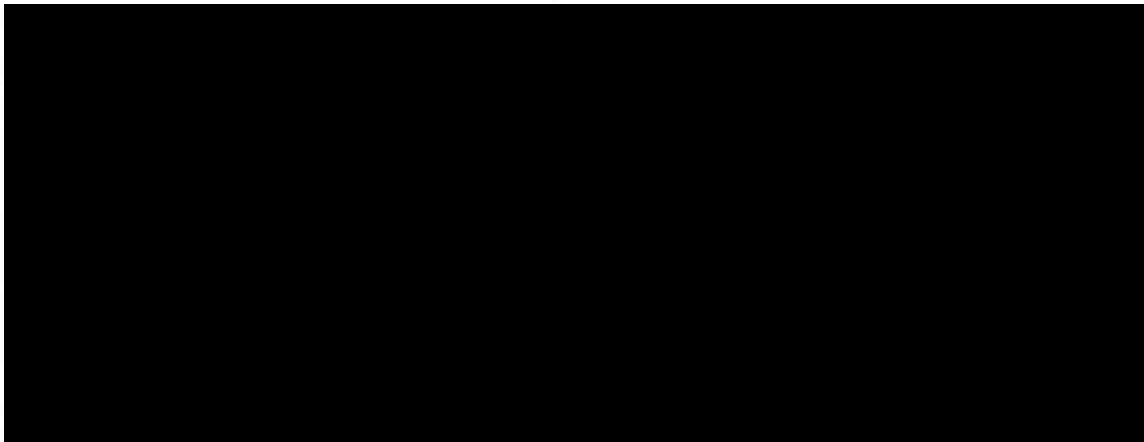
just think that those types of things should be considered and possibly even a part of the consideration when they're writing up the violation.

Logan Gregory: Right, thank you. And it is, like specifically the tuna case, that's why he received a written warning and not a further fine because we knew - you know, he wasn't trying to hide it. We couldn't let him keep the tuna because he wasn't allowed to have it.

We can't allow - you know, even though it was incidentally caught and accidentally caught, you know, we can't allow fish to enter the market that they don't - you know, particular fishermen aren't allowed to possess, that wouldn't be fair to the fishermen that are allowed to possess and sell those with the particular kind of gear.

So, you know, it is kind of a gray area, it is difficult to weigh in but there are certain places where we have to draw a bright line and then there's other places where we can have a little more gray. But I appreciate the point that - it's definitely well taken.

(Jim Kendall): All right, thank you very much.



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(Mark Robson): Yes, I'm sorry, I got cut off before. This is (Mark Robson) and I work with the law enforcement committee with the Atlantic States Marine Fisheries Commission. I just had a comment and maybe one observation but the comment is, first of all, I really appreciate the fact that NOAA Office of Law Enforcement is going through this process.

And particularly to have these kind of conference calls to try to get input from the people affected, the fishermen out on the water, the state agencies, the other regional agencies. The more input that we can get the better and I've found from my personal experience working at the state level, this kind of interaction eventually yields really good results.

So I applaud you for doing this call and for trying to get as much information from the people involved in these fisheries as you possibly can.

Just one quick observation, I noted that a real high priority of course for this year on the document is going to be working on catch share type programs. And I realize that's a very high priority and, of course, it varies from region to region as to how much catch share activity there is.

But I was wondering if there had been a lot of discussion in developing the document about the need to really look at keeping up the pace of enforcement with the complexity of the rules and regulations that are being put on the water, particularly when we talk about, you know, continuing to have additional closed areas or seasonal closures or special protection zones.

All of these require, you know, additional add-on type of enforcement and we always seem to be playing catch up with the basic regulation. So I was wondering if that had been part of the discussion as to how much to prioritize that in the document.

Logan Gregory: Thanks, (Mark). Actually - and this is going to go to where we get into more specifics internally for our operational planning and what we're going to look at during the season. So like, for example, when the scallop season opens our focus may shift to initially looking at, you know, the scallop fleet and/or when it's getting close to getting closed we're going to look at, you know, the scallop fleet for possible overages or gear violations or things of that sort.

So there's - the priorities - the specific priorities are going to fluctuate by season and by area. So, you know, for example, when the tuna's migrating from south to north, you know, the focus may shift on tuna from Virginia to New York or, you know, when the right whale - when we have problems with right whales and the right whale issues we're going to have more focus during that time of the year.

So that - you're right, we do play catch up a lot because while we have very limited resources and my initial comments, we can't be everywhere at once, you know, we have, you know, I think 30 agents and officers in the Northeast Division to cover from Maine to Virginia and there's, you know, also the international complexities that we're dealing with, import/exports, marine mammals, endangered species.

There's a lot of nuances and a lot of places and not just the resource protection but also the economic - there's some different things that come in play as far as economics where we had a problem here in the Mid Atlantic with the strip bass fishing in the EEZ where, you know, some charter boats would - were gaining some economic benefit because of their willingness to take charters into the EEZ where the boats that were playing by the rules weren't.

And they were losing charters because of it. So we needed to focus our attention on that to try to help level that playing field.

So where Atlantic strip bass maybe not be a huge resource management priority as far as, you know - it's not a fishery that's in trouble, it was a major local issue and an economic issue. So those types of things we have to weigh in as well.

The document is very broad and it's broad for a reason so that we can have some space to operate in. If we narrow it too much we'll leave stuff on the table and we really don't want to do that. We want to prioritize and focus as much as possible but at the same time we need to be able to be flexible to address things as they come up.

I hope that kind of answers your question.

(Mark Robson): Yes, thank you, Logan.

Logan Gregory: Okay.

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Coordinator: Tom Gemmell, your line is open for your question.

Tom Gemmell: Sherrie, can you hear me okay?

Sherrie Tinsley Myers: Yes, I can.

Tom Gemmell: This is Tom Gemmell with the Halibut Coalition based here in Juneau.

As you're probably aware, there have been a number of sting operations on halibut charter operators over the past few years. There seem to be quite a few of them. We have heard informally that - I think it was the state did something like over a dozen sting operations and 100% of the operations they found

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significant violations. But they don't seem to have the money to do the prosecutions on all of them.

So I guess part of my question is where did the charter halibut violations rank on your list? And two, I haven't seen a comprehensive analysis from coastguard (unintelligible) and Fish and Game on how big a problem there is with charter boat violations, including falsification of logs, undersized fish and that kind of thing, so...

Sherrie Tinsley Myers: Thank you for your question, Tom.

First of all, with respect to any cases and investigations that the state has conducted, I'm not going to comment on those because obviously it would be more appropriate for them to speak on those and they're not on this call today for obvious reasons, it's about our agency.

Secondly, sometimes the prioritization of a particular violation will really come down to what actionable information we have.

Certainly enforcing all of the laws is important. And sometimes we have a violation that may be a very high priority for us but we have no actionable information. So sometimes that's very much a factor in our decision process about where to put it.

But certainly we recognize that halibut is a very precious resource here in Alaska and we will make every effort do deal with violations that come to light when they have actionable information that we can actually work with because we don't want to have with any sector that's participating damaging the resource because we haven't been enforcing the law in that sector.

Tom Gemmell: Has there been any - I'm not talking about active cases now, I'm talking about ones that have been published in the press and that kind of stuff. Is there a compilation of all these charter violations by the different agencies? And some sort of assessment of how big and how bad the problem is?

Sherrie Tinsley Myers: We have not conducted an (interagency) assessment such as you're talking about, no.

Tom Gemmell: Okay, thank you.

Sherrie Tinsley Myers: You're welcome.

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* (Merlin Dalton): Hello, good morning from Guam. Good morning, Bruce, thanks. This is the first time I'm involved in a conference call with you guys and I'm new to this but I have a question regarding our area.

There are several whales that pass through our area and I'd like to take a proactive approach in protection of these species that go through our waters but I guess from my standpoint I'd like to know if there's any training available for my staff regarding this issue.

Bruce Buckson: That was training for I'm sorry, I had trouble hearing you in the beginning.

(Merlin Dalton): State, region or territorial enforcement of protected species?

Bruce Buckson: Okay, got you, thank you very much. Thanks for calling in too, I appreciate that.

(Merlin Dalton): No problem, sir.

Bruce Buckson: We actually have back to Phil's comment we actually have a partnership of an enforcement agreement with the folks in Guam and part of that we hope we're able to include some of those training options as well.

And with regard to whatever seems to be the most important in your area that you're maybe lacking but that would go through our Pacific Island division and can easily be coordinated with that special agent in charge out there, Bill Pickering.

And I don't know exactly the timeframes of how he'd be able to do that but it sounds like something that it should be able to be accomplished.

(Merlin Dalton): Yeah, I appreciate that. Also I'm not sure if this is the venue for this but I would like to establish an MOU with NOAA law enforcement for the Department of Agriculture law enforcement office so that we can work more closely.

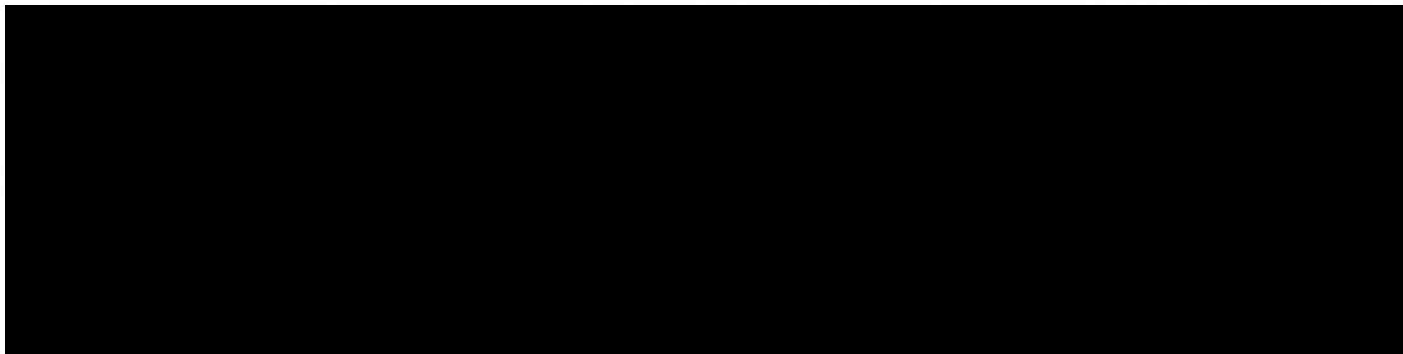
We've been very successful in the past with other issues such as turtle poaching and shark finning but we'd like to expand our resources with NOAA law enforcement with an MOU. I was hoping you could help us with that.

Bruce Buckson: Our partnership as it exists now is with - I'm not exactly sure what the agency name is in Guam - but the enforcement partnership and the cooperative enforcement agreement is through a particular agency there and that I'm not real sure of the structure of your particular government and your different organizations but it would probably be best to begin that discussion with those folks that we already have the agreement with.

And I'm sure that again special agent in charge Bill Pickering in the Pacific Islands would be able to help facilitate at least the beginning discussions on that.

(Merlin Dalton): Yes, sir. Thank you very much.

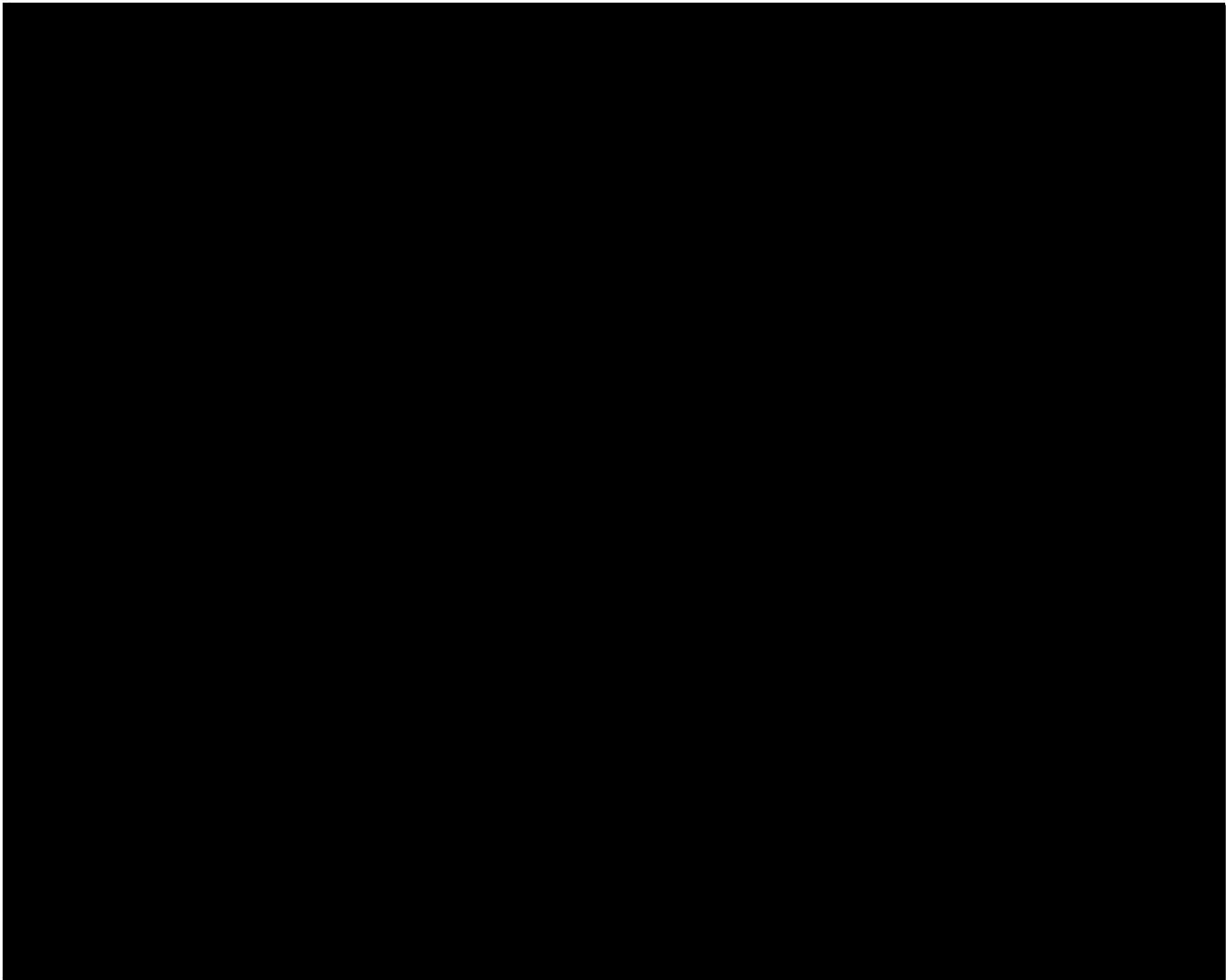
Leslie Bales-Sherrod: Thank you.



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* Bill Kelly: Thank you. My name is Bill Kelly. I'm with the Florida Keys Commercial Fishermen. We've got an enormous problem down here with trap robbing and theft of spiny lobster and stone crab to the point of about \$7.3 million per season for the combined fisheries.

The NOAA law enforcement has made some outstanding cases. In fact some of the biggest cases that we've seen in the Florida Keys regarding illegal harvest of spiny lobster and trap robbing. And we're limited though.

We've only got two NOAA law enforcement officers down here, John O'Malley and Ken Blackburn. But they've done an outstanding job in protecting our industry from these huge losses.

We're very much concerned about trap theft and trap robbing but we're also concerned about the illegal export of spiny lobster. About 80% of our product goes overseas primarily to China and Taiwan and then Europe as a third market.

And we've got serious issues with products that are being sold without proper licensing and so forth and making their way up the overseas highway for export from Miami and Fort Lauderdale. And we could certainly use some additional effort here and support from NOAA to tackle this issue.

Otha Easley: Well thanks Bill for the accolades regarding the two agents down there. Yeah, they're really busting their rear ends so to speak, to do the - to do the best that they can. And we're as management here in the southeast, trying to extract as much energy out of them as possible.

And it sounds like we're doing a pretty decent job.

Bill Kelly: You're certainly getting your money's worth Mr. Easley. Some concerns that we have though are considerations right now by the diving industry in the Florida Keys to seek legalization of what's called casitas or underwater illegal structures that have been placed throughout the Florida Keys in the marine sanctuary for decades here.

And this illegal harvesting because this is casitas or lobster habitats, are not removed from the water, present year round problems and of significant

magnitude. We recently had a case in which one fish house owner was fined \$500,000 because of year round harvest on these lobsters.

That case was made by Blackburn and O'Malley. And there's another case in which more than 6000 spiny lobster tails were found frozen in freezers and so forth on Big Pine Key. And again it was an organized crime operation. These cases simply are the tip of the iceberg.

It's - we know that it is much greater than that to the tune of approximately 8% to 10% of the spiny lobster harvest annually and a half a million pounds is robbed from legitimate fishermen.

And we're looking at similar numbers, in fact slightly higher at 10% to 12% of the fishery or about 350,000 pounds of stone crab claws each year that are robbed from traps and taken from illegal structure at a cost - a significant cost of \$7.5 million to simply 650 legally licensed commercial fishermen down here.

Jeff Radonski: And if I could chime in, this is Jeff Radonski and that is an area I supervise. I hear what you're saying and just it is definitely one of our priorities, the Florida Keys National Marine Sanctuary from the corals to the marine resources that are being harvested commercially.

And we are making that a priority and have made it a priority and as you stated just a few in the cases that have been made down there we're hoping that that demonstrates that we're making it a priority and we will continue to do so. But I appreciate your comments very much.

Bill Kelly: Thank you.