

A Washington, D.C. Year in Review

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Rick Marks, PSMFC 2016

- Magnuson-Stevens Act
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- Resilience?
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- Catch Shares
- Sharks, the bite goes on...
- PSMFC Issues "*Grab Bag*"
- *Summer Reading Tips*
- *You heard it here!*

MSFCMA Reauthorization

House & Senate Activity

- House passes H.R. 1335 *"Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act"* (6/1/2015); Admin issues veto threat
- *Curse of the Gulf Red Snapper*...impacts D-Crab legislation & MSA reform; House Nat Res Cmte moves H.R. 3094 but critical amendment forces LA to opt out (6/15/16); Senate FY17 appropriation riders continue the ugliness...
- On D-Crab...H.R. 2168 passed House (10/15); S.1143 passed by Commerce Cmte (5/23/16); held indefinitely by Sen. Vitter (R-LA)
- Senate Commerce Cmte oversight hearing "MSFCMA at 40-yrs" (2/23/16); Senate stakeholder "MSA Roundtables" (3/24/16, R.Marks participates); Senate unable to produce new reauthorization legislation
- **OUTLOOK**: Start from here in 2017...

Magnuson-Stevens Act (MSFCMA)

- NOAA revising NSG's 1-3-7 (6/15); waiting on Final Rule...
- NOAA revising National Bycatch Strategy (7/15); waiting on final version along with regional plans
- NOAA issues SBRM, RFMC's have 5-yrs to ensure FMP consistency (2/24/16)
- NOAA issues *Draft* Report to Congress on Section 404 Fisheries Research (6/23/16)
- NOAA issues *Final* EBFM Policy (5/25/16); *Draft* implementation "Road Map" for RFMC comment (7/10/16) & public comment closes 10/15/16
- NOAA releases National Allocation Policy (8/1); convenes sport fishing (8/2) & general public calls (8/23); NOAA tasks RFMCs to develop allocation process w/in 3-yrs or as soon as practicable ; See <http://www.nmfs.noaa.gov/op/pds/index.html>

National Ocean Policy Update

- NOC/GCC meets in DC for transition planning (10/15; 5/16 & 10/16)
- "National Oceans & Coastal Security Fund" authorized for 3-yr in FY16 Omnibus; subject to appropriations, no NGO donations (Sen. Whitehouse-D-RI); FY16 Omnibus contains zero NOP funding
- Joint Oceans Commission NOP initiative in Gulf of Mexico (5/16/16)
- House Nat Res Subcmte holds oversight hearing on "The Implications of President Obama's National Ocean Policy"; Admin invited (no show); charter & commercial fishing/agriculture/wind energy testify (5/17/16)
- JULY 2016 – the NE RPB and MID RPB release first draft NOP Regional Ocean Plans for public comment; goal is final NOC approval before end of current Administration
- West Coast RPB draft charter is set for approval at the October 25-27, 2016 mtg (location Portland, OR); For updates and information see <http://www.westcoastmarineplanning.org/>
- U.S. State Dept. hosts the 2016 Our Oceans Conference (Sept 15-16)

National Ocean Policy

Quote of the Day...

“If your business conducts any Atlantic Ocean-connected commerce – fishing, shipping, energy-generation, tourism, waste treatment, even insurance – the Mid-Atlantic Regional Ocean Action Plan almost certainly will shape your future operating environment”

— *Paul Murphy, Bloomberg Business, 7/8/16*

*"Obama Has Now Protected More
Land and Water Than Any Other
President "*

*"Obama has now protected more land and
water...than any other president...has used
the Antiquities Act 22 times, placing him
behind only Franklin D Roosevelt, who spent
longer in office."*

*– Oliver Milman, The Guardian, February 16, 2016;
published on <http://www.alternet.org>*

Marine Sanctuaries & Monuments

Slide #1

- NOAA/NOS 2014 new site petition process leads to 9 nominations -
- 2 approved, the first in 15-yr (in MD & MI)
- House Natural Res Cmte hearing on *Potential Impacts of Pending National Marine Monument Designations* (9/29/15 – WCSPA Exec. Dir. R. Moore testifies); NY field hearing on similar topic (12/7/15)
- House-passed H.R. 1335 contains a provision specifying MSA as the controlling law in cases of statutory conflict (i.e. NMSA, ESA, Antiquities Act)
- S.437; H.R.330; H.R.332; all contain provisions designed to limit Administration's use of executive designation authority
- FY17 Interior Appropriations bill (H.R. 5538) contains 2 provisions to prohibit federal spending on monument designations/NOP activities; ongoing lobby campaigns for/against

Marine Sanctuaries & Monuments

Slide #2

- NGO's lobby Admin. for NE monument designation (10/15); triggers broad stakeholder opposition
- President says "no" to NE monument (3/25/16); ASMFC weighs in on transparency (5/16); NGOs continue to pressure Admin (7/16)
- RFMCs adopt resolution expressing support for the role of MSFCMA if marine monument designations are made (6/27/16)
- NGO/Academic coalition launches effort to protect CA seamounts; 40+ West coast charter/commercial/recreational groups oppose (6/29/16)
- CA Reps. Farr/Lieu introduce H.R. 5797 to protect CA seamount & ridge habitats in a new National Conservation Area (7/14/16)
- HI Sen. Brian Schatz (D) requests President quadruple HI Nat'l Marine Monument (to 580,000 sq nm) (6/16)

Marine Sanctuaries & Monuments

Slide #3

- NOAA/NOS nominates CA Current Conservation Complex as UNESCO World Heritage Site (7/29/16)
- CT Delegation requests 1st Monument in NE (8/4)
- National fishing coalition letter opposing new monuments 825+ signatures online (9/1)
- West/East Coast Mayors (MA/CA) letter opposing monuments (8/24)
- PEW, LCV & Ocean Conservancy nat'l petitions for more monuments
- President adds ME, and HI Monument expansion (+582,578 mi closed to commercial fishing; 8/25)
- NY Times editorial supports monuments (8/26)
- WPFMC requests analysis prior to any designation (8/8/16) & issues Fisheries Newsletter titled "Why The Rush?"; opposes HI expansion as not scientifically justified (8/25); PFMC letter of CA concern to President (9/1); 1st East Coast Monument; 4,913 mi (9/15)

Total National Monument *Acreage* Added By U.S. Presidents (as of 9/15/2016)

- Roosevelt: +1,500,000
 - Wilson: +900,000
 - Coolidge: +1,500,000
 - Hoover: +3,100,000
 - FDR: +2,800,000
 - Nixon: 0
 - Carter: +54,000,000
 - Reagan: 0
 - GHW Bush: 0
 - Clinton: +5,700,000
 - G Bush: +214,800,000
 - **Obama: +821,205,320**
- (from Wash. Post; J. Eilperin & A. Steckelberg; 8/16/16)*

Antiquities Act

Quote of the Day...

"This is a legacy action for the president. Not only did he create the world's largest protected area – land or sea – but he'll be remembered in history as the single individual who's protected more surface area of the planet than anyone else in history."

– *Seth Horstmeyer, PEW Charitable Trust Global Ocean Legacy (8/29/16)*

Resilience – say whaaat?

- "*Resilience*": an emerging concept in climate change, ecosystem & fisheries management, MPAs/monuments, ESA listings, critical habitat, coastal communities (NOAA's Resilient Fishing Community Workshop May 3-5, 2016)
- Integral to Admin's Climate Change Strategy, NOP, CMSP, Resilient Land & Water Initiative; key objective in NOAA's EBFM Policy
- Concept is yet to be defined for management purposes
- In June, FEMA releases a national concept paper to develop key indicators of community *resilience*; Comments to 12/15/16; See <https://www.fema.gov/community-resilience-indicators>
- H.R. 5771; "The Conserving Our Coral Reefs and Livelihoods Act of 2016" (7/13/16) is the first to attempt a definition -- "*the capacity for corals, coral reefs, or coral reef ecosystems to recover from natural and human disturbance as determined by clearly identifiable, measurable, and science-based standards.*"



Protected, Endangered, Threatened Species #1

- H.R. 564; WA Rep. Herrera Beutler/OR Rep. Schrader's "*Endangered Salmon & Fisheries Predation Prevention Act*"; House Nat Res Subcmte hearing 7/23/15; markup 9/22/16
- House Nat Res hearing "Costly Impacts of Predation & Conflicting Federal Statutes on Native & Endangered Fish Species" (2/10/16); **Key Issues:** CA H20, Pike Minnow(!), H.R. 564
- NOAA issues new LOA for WA/OR/ID to continue lethal removal of CA sea lions near Bonneville Dam (through June 30, 2021)
- House Nat Res hearing on USFWS ESA Critical Habitat Policy Changes (4/19/16); **Key Issue:** Listing CH not yet occupied
- CA Sea lion population at 296,750 and counting...no OSP determination expected in the near term...

Protected, Endangered, Threatened Species #2

- Presidential Memo on Mitigating Dev. Impacts on Natural Resources (11/2015; incl. USFWS/NOAA); USFWS publishes Draft Mitigation policy (81 FR 12380); comments to 10/17/16 (81 FR 61032)
- USFWS publishes notice on methodology for prioritizing status reviews and ESA petitions to better manage workload (81 FR 49248)
- USFWS/NOAA revise interagency policy to clarify role of State agencies (81 FR 8663)
- USFWS/NOAA issue FR on critical habitat designations (81 FR 7414)
- NOAA revises guidelines assessing marine mammal stocks (81 FR 10830)
- NOAA FR: MMPA equivalency of Foreign Fisheries exports to U.S. (81 FR 54390; effective Jan 2017); 4 Webinars in September; See http://www.nmfs.noaa.gov/ia/slides_stories/2016/08/mmpafinalrule.html

Protected, Endangered, Threatened Species #3

- Senate EPW Cmte convenes an "On The Record Briefing" to begin discussions on ESA reform with USFWS and Western Governors (12/29/15); **Key Issues:** Perceived failure of ESA, public petition process, role of State agencies, and impacts of predictive climate change models
- NOAA revises humpback whale population segments/ESA status (9/8/16); NGOs file intent to sue NOAA re: West Coast sablefish pot/whale interactions (9/13/16); NOAA/CA informal D-crab mtgs
- NOAA convenes Species Recovery Program Review (incl. Pacific leatherback & Sacramento Winter Chinook (4/16); Final Report <http://www.nmfs.noaa.gov/pr/recovery/#2016%20national%20recovery%20program%20review>
- USFWS Grant Opportunity: *Illegal Marijuana cultivation impacts on prey and carnivore dynamics in fisher, Humboldt marten, and Northern Spotted Owl habitat* (8/29/16; No. F16AS00438)

EPA NPDES "VIDA" Issue Update

- Moratorium on EPA NPDES permits sunsets 12/19/2017 for all commercial fishing & charter boats regardless of size, and all commercial-use vessels <79-ft
- U.S. 2nd Cir Ct of Appeals overturns EPA's VGP ballast water standards, rest of VGP stands (10/5/15)
- Senate Commerce Cmte tries to move Sen. Rubio's S.373/H.R.980 "VIDA" as part of 2016 USCG reauth; 2017 MARAD; 2017 NDAA most likely vehicle; growing opposition from AFS; AFWA; CRITFC; 100+ NGOs; & 11 States (WA/OR/CA/NY/MI/ME/RI/HI/WI/AZ/MN)
- Admin opposes (incl. ballast water & state jurisdiction provisions, and permanent NPDES permit fix)
- AK's S.371; a permanent "clean" moratorium sits idle; consistent with PSMFC 2015 Resolution IV
- **OUTLOOK**: Controversy persists; Sens. Rubio/Boxer & Senate status; discussions ongoing between Hill staff, State agencies & AWO/PVA...

USCG Issue Update

- Congress passes USCG bill (2/16); prevents Newport, OR helo base closure; exempts existing passenger (i.e. charter fishing) vessels from onerous survival craft requirements
- Mandatory Dockside Safety Exams started 10/15/15
- USCG issues NPRM (6/21/16; *See* 81 FR 40438) to bring regulations in line with new requirements from 2010 & 2012 Congressional actions; comment period extended to 12/18/16
- USCG/NOAA re: commercial vessels as science vessels????
- Alternative Safety Compliance Program (ASCP) for 1/17 implementation falters; 33 Senators write the USCG (6/15); AK's S.3088 requires 3-yr delay (6/29); USCG pivots to voluntary Enhanced Oversight Program "EOP" (7/16): recommendations expected Jan'17

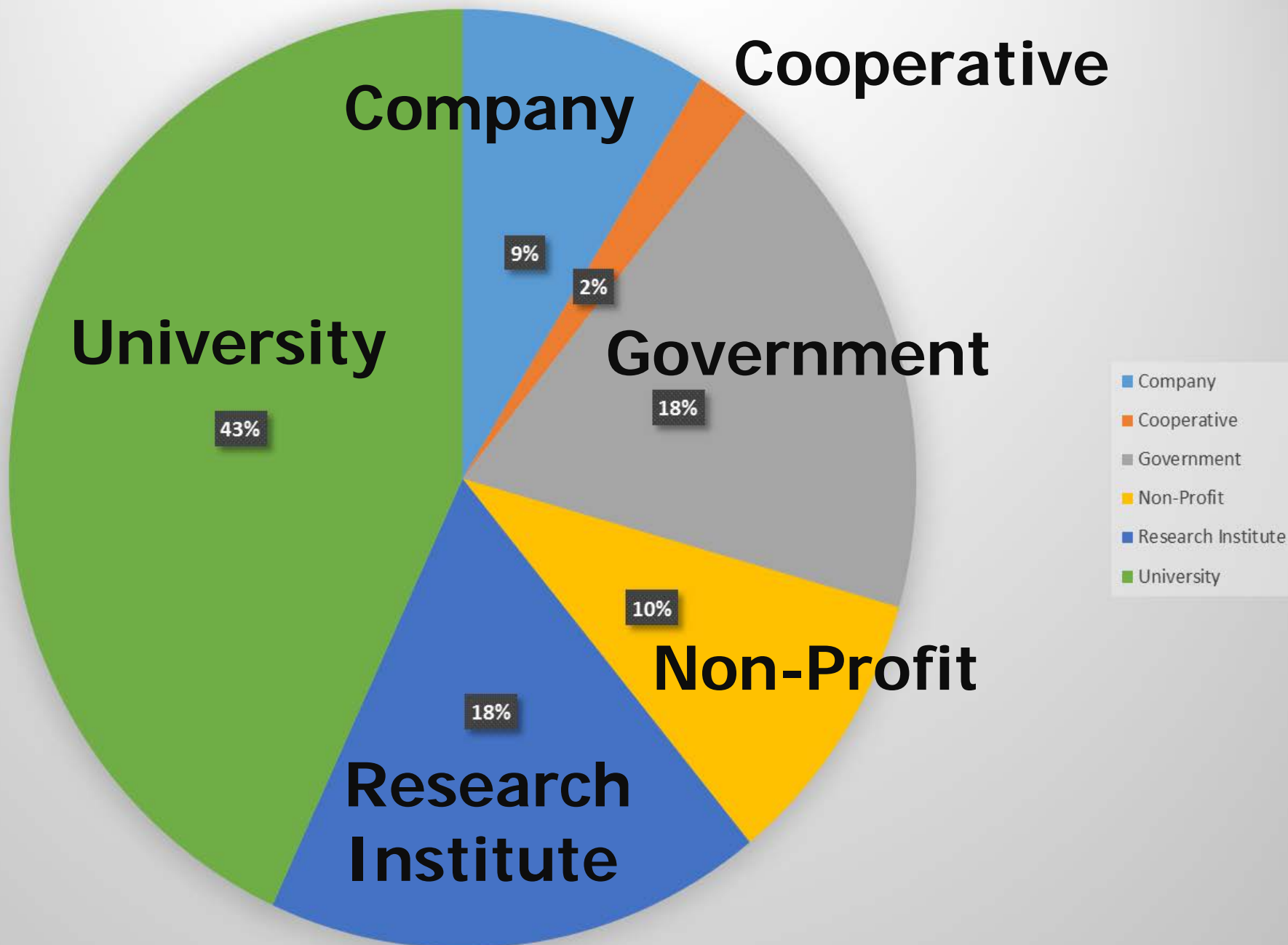
IUU Fishing & Seafood Fraud

- Final Report on the IUU Task Force available at http://www.nmfs.noaa.gov/ia/iuu/noaa_taskforce_report_final.pdf
- Congress passes H.R. 774 the “Illegal Unreported and Unregulated Fishing Enforcement Act of 2015” (imports only; 10/15/15)
- NOAA releases list of species determined to be at-risk for IUU and fraudulent activities (10/29/15);
- NOAA launches IUU web portal at www.iuufishing.noaa.gov
- NOAA releases *Draft* voluntary “Trustee Trader Program” for importers to navigate the IUU requirements (5/16)
- NGO’s launch Congressional campaign to encourage Administration to expand requirements to *all* seafood products throughout entire chain of custody (6/16)

Saltonstall-Kennedy (S-K) Activity

- Growing dissent about the % of S-K transfer available to industry (~ 7% of \$140M transfer of USDA import duties), prioritization process disconnected from intent of 1954 Act, as well as 1980 & 1983 changes increasing % of duties transferred for grants from 30% to 50% to current 60%, to be used exclusively for promoting U.S. fisheries (*from CRS, E. Buck, RS21799, 12/5/12, 8 pgs*)
- Senate Commerce Cmte approves S.3087 (Sullivan, Cantwell, Murkowski) to reform & enhance industry role; substantive amendments added (6/29/16)
- HR 5775 (Rep. Young-AK-R) companion bill; idle
- NOAA announces FY17 S-K pre-proposals, same focus areas as FY16 (7/22/16)
- Alaska industry analyst (Bruce Schactler) examines 2015 S-K awards by applicant type...his pie chart on the next slide shows the breakdown...

Amount Allocated by Applicant Type



Catch Share Issue Update

- RFMCs reviewing NOAA's internal Draft Guidance for Conducting Reviews of Catch Share Programs (1/29/16)
- PFMC currently undergoing 5-yr review of West Coast Groundfish Trawl IFQ Program; See <http://www.pcouncil.org/groundfish/five-year-review-trawl-catch-share-program-amendment-20-intersector-allocation-amendment-21> or <https://is.gd/fCNeH2>; Public meetings during September
- H.R.2646/S.1275: "Revitalizing the Economy of Fisheries in the Pacific Act" ("REFI") for 2003 West Coast buyback loans; remains stalled due to fiscal issues; NMFS issued PR 8/6/15 (80 FR 46941) – final action contingent on 3 referenda PLUS \$10.3M federal appropriation...
- NOAA issues PR for Electronic Monitoring in West Coast Groundfish; comments due 10/6/16 at 81 FR 61161

Sharks, the bite goes on...

- NOAA's 2015 Coastal Shark Survey: highest in 29-yr history (9/8/15)
- Wknd Beach Attacks Could Close HI Beaches: *USAToday* (10/20/15); Makaha Bch, Oahu closed: *HI News Now* (7/26/16)
- 2015 shark attacks highest in recorded history; 2016 increase widely expected
- Porbeagle ESA listing petition rejected; 81 FR 50463 (8/1)
- NFL player W. Sapp bitten in FL Keys (7/27); NY Gov. Cuomo lands legal thresher shark, suffers social media attacks (8/27)
- Legal FL shark vessel harassed, gear damaged/threats (8/29)
- Time Magazine "How Climate Change is Fueling a Rise in Shark Attacks" – "*Climate change is pushing sharks...northward, at the same time, warm weather means people are more likely to go swimming, a potentially fatal combination....*" (6/23/16)
- S.3095/H.R.5584 *The Shark Fin Trade Elimination Act of 2016* to ban fins (i.e. end legal U.S. shark fishing); meets intense industry & Mote Marine Lab opposition (6/23/16)
- NOAA publishes FR to implement Shark Conservation Act of 2010; 81 FR 42285 (6/29/16)
- "SHARE" Act to ban all shark feeding attractions

PSMFC "Grab Bag" #1

- NOAA releases Habitat Blueprint website (5/25/16); See <https://www.habitatblueprint.noaa.gov>
- NOAA to create MAFAC Task Force on Columbia Basin Salmon & Steelhead (81 FR 47776; 7/22/16); Recovery Plan (8/16/16)
- NOAA releases Draft Ocean Noise Strategy Road Map (6/1/16)
- Commerce Cmte approves S.2219 to have Dept. of Commerce est. the economic value of the outdoor recreation industry
- MPA Federal Advisory Cmte meets (5/16); efforts ongoing to create MPA connectivity to address climate change; See <http://www.marineprotectedareas.noaa.gov>; Next webinar 10/3; Nominations for new members due 10/7/16
- "TPP" Trade Agreement odds lower, possible lame duck activity
- WTO agrees to initiative to end fishing subsidies (9/14/16)
- 29 countries (U.S. & EU) party to 2009 Port State Measures Agreement to combat IUU fishing (6/5/16); NOAA issues steps for PSMA implementation & enforcement (6/8/16)
- Senate FY17 Interior approps bill includes provision to prohibit EPA regulations of lead ammunition & fishing tackle
- NE District Court rules at-sea observer costs "an expected expense of doing business" (7/29/16)
- EPA's "Waters of the U.S. Rule" to expand the definition of navigable waters delayed by the courts; Congress attempting to overturn via FY17 appropriations

PSMFC "Grab Bag" #2

- S.2654 "D-Crab Emergency Disaster Assistance Act of 2016" (Sen. Boxer-CA; 3/8/16)
- NOAA publishes Regional Saltwater Rec Plans (4/16)
- FY16 Omnibus provision specifies "Alaska Pollock" nomenclature
- Retirements...(CA) Sen. Boxer, Reps. Farr/Capps; (WA) Rep. McDermott; USFWS Dir. Ashe
- Sportsmen's "SHARE" Act passes House (H.R.2406; 2/26/16)
- Admin final NEPA guidance (incl. greenhouse gas emissions & climate change) (8/16); House hrng (9/16)
- NOAA releases Marine Aquaculture Strategic Plan (6/1/16)
- FDA approves genetically modified salmon (11/19/15); AK Sen. Murkowski adds labelling & consumer info requirements
- PFMC criticizes CA Drought bill (S.2533; News Deeply; 5/17/16)
- U.S. DOJ adds 10 special protected area prosecutors (1/4/16)
- GAO to report on impacts of climate change on fisheries management
- Senate passes S.1335 "North Pac. Fish Convention Implementation Act" (5/20/16); House acts (H.R. 4576; 9/14/16)
- Starfish wasting disease reportedly easing in CA/OR

Rick's End of Summer Brain Builders...

Young Men and Fire

Norman Maclean (1993)

Fire on the Mountain

John N. Maclean (1999)

The Silencing: How the Left is Killing Free Speech

Kirsten Powers (2015)



AND YOU HEARD IT HERE...

- As large animals disappear, the loss of their poop hurts the planet: *Wash Post* (10/26/15)
- Police unite traveler with lost turtle in NYC bus station: *NBC4 Wash* (7/25/16)
- Robot larvae deployed off San Francisco: *MarEx* (9/2/16)
- 110-year old 15-lb lobster rescued from Florida restaurant: *UPI* (7/23/16)
- McDonald's invites people to create their own burgers online. Things go very badly: *Telegraph News* (7/21/16)
- Man fined for smuggling turtles in his pants: *AP* (2/26/16)
- Turtle crashes through FL woman's windshield: *NBC4 Wash* (5/13/16)
- Pot-infused Gravlax may be the next big thing in edibles: *Seafoodnews.com* (9/14/15)
- Wild Boar barrels out of the ocean and into terrified sunbathers: *Telegraph News* (7/20/16)
- Walmart thief escapes on electric scooter: *UPI* (7/26/16)
- Potato in tailpipe leads to arson charge against stripper: *AP/NBC4 Wash* (7/14/16)
- Man tries to put out garbage fire by driving over it in a van loaded with ammunition: *KC Star* (10/13/15)