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To: Randy Fisher, Executive Director

From: Rick Marks, ROMEA

Date: August 10, 2021

Re: PSMFC Annual Meeting Report



The following written report is in lieu of the standard ROMEA in-person presentation for the PSMFC 2021 Annual Meeting. ROMEA staff will be available via video conference during the Commission's meeting on August 24th to address any questions pertaining to this report.

Biden Administration Executive Action Update

As of July 26, 2021 President Biden has issued 52 executive orders, 28 memoranda, 97 proclamations, and 19 notices. Federal agencies are in the early stages of work to address the requirements of these various executive actions.

Here is a short list of some of those actions that may impact ocean resources/stakeholders --

- ▶ EO 13985 *Advancing Racial Equity and Support for Underserved Communities* was issued on January 20, 2021. NOAA is developing an "Advance Equity for All Road Map" (AEFARM); and NMFS is also forming an "Equity and Environmental Justice Working Group".
- ▶ A Presidential Memorandum on *Modernizing Regulatory Review* was issued on January 20, 2021. The Office of Management & Budget (OMB) is currently conducting a comprehensive review process with all federal agencies to improve the federal regulatory process.
- ▶ EO 13990 *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis* was issued on January 25, 2021. This order requires all federal agencies to review and address any regulations issued between January 20, 2017 and January 20, 2021 to determine if they are inconsistent with the Biden Administration's agenda. For example, the Department of Interior is reviewing the Trump era changes to the Northeast Canyons Marine Monument along with two terrestrial monuments – no final decisions have been issued (*See* also section below on "Antiquities Act/Monuments").

Also in the context of EO 13990, on February 4th President Biden's U.S. Department of Justice Environmental and Natural Resources Division issued a national memorandum rescinding

President Trump's January 9, 2018 order prohibiting 3rd parties from collecting litigation settlements from the U.S. Treasury. As such, under the Biden Administration it will be easier and more lucrative for parties to "sue & settle" with the federal government on cases involving environment and natural resource issues.

► A Presidential Memorandum on *Tribal Consultation and Strengthening Nation to Nation Relationships* was issued on January 26, 2021. The Department of Commerce/NOAA has already conducted several tribal consultations, and outreach efforts continue to all 574 Federally-Recognized Indian Tribes.

► EO 14008 *Tackling the Climate Crisis at Home and Abroad* was issued on January 27, 2021. Perhaps the most consequential order from an ocean resource management perspective, this includes a number of sections directly affecting ocean resources/stakeholders as follows.

Section 207 specifies a doubling of offshore wind energy production by 2030 – hence the slogan "30 More Gigawatts by 2030"; and is linked to a March 29, 2021 White House energy forum where President Biden announced BOEM will have 16 offshore wind operation plans in place by 2025.

Section 208 institutes a pause on new oil & gas leasing on public lands and offshore waters pending a federal review. Section 215 creates a new Civilian Climate Corps.

Section 216 has two critical components -- Section 216 (a) calls for the Department of the Interior, the Department of Agriculture and any other federal agency to set aside and permanently conserve *at least* 30% of all land and water in the United States by 2030 (hence the second Administration's slogan "30% by 2030"), as well as the creation of an American Conservation & Stewardship Atlas.

In the context of the 30x30 initiative there is some ambiguity about what actually constitutes "conservation" (vs. "preservation") and whether this applies to all land and water (including under State jurisdiction or private ownership) or simply land and water under the jurisdiction of the Federal government.

The second component -- Section 216(c) requires federal agencies to make fisheries and protected species more resilient to climate change through use of MSFCMA, ESA, MMPA, CZMA, NMSA and other applicable law.

In March, 64 Republican Members of Congress wrote to the White House expressing concerns about the lack of information and ambiguous goals of the 30x30 initiative. In April, eighteen Republican Governors sent a similar letter to the White House questioning the constitutional and statutory basis for Section 216. They noted that the Department of the Interior is required under the EO to consult with State, Local, Tribal and Territorial Governments, agricultural and forest landowners, fishermen, and other stakeholders prior to submitting a report to the National Climate Task Force. The letter included a series of questions, including whether existing federal lands would be counted toward the objective; how the 30x30 program would be managed; the extent to which multiple use would be permitted on these lands; whether the Government would

seek to apply the directive to private lands; and how the Federal Government would redress opposition to any proposal to acquire non-federal lands.

On March 12, 2021, the eight Regional Fishery Management Councils sent a letter to both Interior Secretary Haaland and Commerce Secretary Raimondo regarding Section 216(a). In the letter the RFMCs elucidate many of conservation efforts and accomplishments achieved through the Magnuson-Stevens Act process, noting that upwards of 72% of the EEZ is already protected. The Councils also provided a recommendation that future conservation actions should go through a MSA-type stakeholder process, rather than purely through executive action.

On March 19, 2021 the North Pacific Fishery Management Council (NPFMC) sent a letter to NOAA detailing concerns with the definition and application of guidelines for marine protected areas in the context of EO 14008.

On May 4th the Republicans on the House Natural Resources Committee convened a forum (not a committee sanctioned hearing) to discuss the 30x30 action, including among other topics the current state of our fisheries, the lack of scientific justification for more MPAs, and the potential impacts of closed areas on our Nation's fishing activities.

On May 6, 2021 the agencies moved to the next step of implementation by submitting to the new National Climate Task Force a preliminary report titled *Conserving and Restoring America the Beautiful*. This report includes among other things, a recommendation for the Federal government to expand the National Marine Sanctuaries System and the National Estuarine Research Reserve System. The report also recommends that NOAA work closely with the Regional Fishery Management Councils to use the authorities provided under the Magnuson-Stevens Act to improve conservation outcomes for the protection of marine species and habitats to achieve the 30x30 objective. There was no specific mention of the Alaska and West Coast regions.

The issuance of the May 6th America the Beautiful Report was concurrent with NOAA's outreach efforts to tribes, states, and other ocean stakeholders on the implementation of Section 216. For example, during June-July 2021 NOAA HQ staff conducted a series of stakeholder listening sessions. ROMEA's Rick Marks participated in the July 29th session which was both substantive and constructive. NOAA staff indicated their outreach efforts will continue.

As of the date of this report the Department of Interior/USFWS has shown comparatively little interest in formal stakeholder outreach/input on the implementation of Section 216.

The "Ocean-Based Climate Solutions Act of 2021"; H.R. 3764 (a.k.a "The Blue New Deal")

On June 22, 2021 the House Natural Resources Committee held a legislative hearing on Chairman Grijalva's (D-AZ) sweeping climate-related legislation (H.R. 3764). A similar version of the bill was subsequently approved by the HNRC on July 14th.

(Note: An Amendment in the Nature of a Substitute to H.R. 3764, the “Ocean-Based Climate Solutions Act of 2021” was offered on July 13th and was ultimately the approved version with a number of amendments added at the markup on July 14th. The base 291-page “Amendment in the Nature of a Substitute” can be found at the link below:

<https://docs.house.gov/meetings/II/II00/20210714/112898/BILLS-117-HR3764-G000551-Amdt-1.pdf>

Back on October 19, 2020 Chairman Grijalva introduced the first version of this legislation which included the highly controversial “30x30” provision. On November 16, 2020 more than 800 ocean-based stakeholders from around the nation sent a letter to the Chairman opposing the 30x30 provision and raising myriad concerns with the legislation.

In December 2020 OR Senator Jeff Merkley introduced the Senate companion version (i.e. the *Ocean Climate Emergency Action Now Act*) which excluded the more controversial elements of the Grijalva version such as 30x30, MPAs, offshore energy, and requirements for fuel efficient fishing vessels. That bill has not been reintroduced in the 117th Congress.

In its current form, Chairman Grijalva’s H.R. 3764 is a comprehensive bill that directs the Administrator of NOAA to provide for ocean-based climate solutions to reduce carbon emissions and global warming; to make coastal communities more resilient; and to provide for the conservation and restoration of ocean and coastal habitats, biodiversity, and marine mammal and fish populations; and for other purposes.

The stated goals of the bill are to reduce greenhouse gas emissions, increase carbon storage in blue carbon systems, promote coastal resiliency and adaptation and support climate ready fisheries. The bill was updated from last year’s version to take into account a number of issues addressed in the last Congress and those the Biden Administration has addressed in the initial wave of executive orders (including the “30x30” initiative). Among other things the bill—

- Prohibits all oil and gas leasing activities in the OCS except for the western and central Gulf of Mexico planning areas.
- Establishes a goal of wind 30 Gigawatts of wind energy production by January 1, 2030;
- Mandates specific scientific efforts, including a research program focused on coastal resilience infrastructure and a program focused on sea-level rise data and tool development.
- Requires a report on shifting stocks and ways to adapt fisheries for the impacts of climate change.
- Modifies Essential Fish Habitat and Habitat Areas of Particular Concern based on feedback from fishermen, ENGO’s, and the offshore wind industry.
- Modifies the National Estuarine Research Reserve System to expand the functions and use of the system to address climate change.

- Authorizes a Working Waterfronts Grant Program to the Coastal Zone Management Act.
- Assures Tribal consultation in any Regional Ocean Partnership established pursuant to the bill.
- Places a 5-cent excise tax on virgin plastic in manufactured single-use products such as packaging, with exemptions for medical products and personal hygiene products. This section includes a Virgin Plastic Trust Fund to receive the funds derived from the excise tax, and directs half of the funds to the general fund and the other half to fund activities in the broader ocean climate legislation.
- Requires NOAA to submit a report to Congress that describes the manner and extent to which the US has made progress towards achieving the targets of the 14th Sustainable Development Goal of the United Nations (relating to conserving and sustainably using the oceans, seas, and marine resources), and plans to achieve those targets.
- Creates a new area category of marine mammal “areas of importance”, a listing of all mammal stocks impacted by climate change, and near real-time monitoring and mitigation program for large whales.
- Creates a grant program to support technology that reduces underwater noise from vessels.
- Requires the Department of Defense to write an unclassified report to Congress identifying existing non-classified naval technologies that reduce underwater noise and evaluate the effectiveness and feasibility of incorporating such technologies in the design, procurement, and construction of non-combatant vessels in the United States.
- Requires NOAA to designate institutions of higher education that have shown national leadership in coastal climate change adaptation and mitigation as National Centers of Excellence in Coastal Resilience Research and Education.
- Establishes a new grant program in the National Marine Sanctuary System to support climate research and resilience with Indigenous and local knowledge of marine and natural areas.
- Requires NOAA to develop and coordinate a comprehensive suite of the coastal flood, sea-level rise, Great Lakes water level, and vertical land motion data, products, and services and requires interagency coordination.
- Authorizes the National Academies to conduct a study on black carbon that quantifies the sources of black carbon emissions and examines its effects on Indigenous communities and marine and terrestrial Arctic wildlife.
- Directs NOAA to conduct an analysis of the scale of fishing gear losses by the United States and foreign fisheries, an evaluation of the ecological and human impacts of derelict fishing gear, recommendations on management measures and an assessment of their cost, and an evaluation of the effect of fishing gear loss attributable to foreign countries.

- Authorizes a study by the National Academies to assess public access to the nation’s coasts, including the Great Lakes. This study must include the quality and quantity of existing public access points by state, opportunities and barriers for low-income communities, communities of color, Tribal and Indigenous communities, and rural communities, the impacts of sea-level rise and extreme weather, and strategies to prevent the loss of public access.

Magnuson-Stevens Act (MSA)

MSA reauthorization -- the last time Congress updated the law was in late 2006 so we are long overdue for reform. There was considerable progress in the 115th Congress but very little in the 116th and it is widely accepted that a full and comprehensive reauthorization will not occur in the 117th Congress but a few tweaks to the Act could be possible.

During early January 2021 Alaska Rep. Don Young re-introduced H.R. 3697, the comprehensive MSA reauthorization legislation titled the “*Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act*”. A similar version passed the House in the 115th Congress (as H.R. 1335) but did not move after reintroduction in the 116th Congress (as H.R. 200). In past years this bill enjoyed broad support in the commercial and charter fishing industries from around the country as it provides flexibility for fishery managers and stability for fishermen & coastal communities, among other things.

On July 26, 2021 House WOW Subcommittee Chairman Jared Huffman (CA-D-2nd) formally introduced H.R. 4690, the *Sustaining America’s Fisheries for the Future Act of 2021* (“SAFFTFA”) In advance of introduction, the Chairman conducted seven MSA listening sessions around the country -- three in the Pacific region, one in the Mid-Atlantic region, one in the Gulf of Mexico region, one in the South Atlantic region, and one in the Western Pacific region. The subcommittee staff also accepted stakeholder comments on a “discussion draft” circulated back on December 18, 2020. ROMEA staff submitted an analysis of that draft to Hill staff in early 2021. On July 28, 2021 ROMEA staff, working with Mr. Dave Whaley, circulated a detailed section-by-section summary of the formally introduced legislation, H.R. 4690.

The “SAFFTFA” is an amalgamation of numerous pieces of legislation that have been introduced but yet to pass Congress as well as an assortment of preexisting issues. This includes but is not limited to the following components –

- Climate ready fisheries
- Fishery disaster reform
- Working waterfronts program
- Seafood marketing
- Community participation in LAPPs
- Tribal representation on PFMC & NPFMC
- Atlantic RFMC liaison voting
- RFMC reforms
- S-K reforms
- Data modernization
- Stock assessments & cooperative research
- Offshore wind collaboration
- EFH consultation and protection
- Bycatch reduction
- Improving rebuilding outcomes
- Replace the term “overfished” with “depleted”
- Electronic monitoring
- Forage fish conservation
- Subsistence fishing defined
- Sexual harassment prevention & reporting

By comparison, the Senate has held no recent MSA hearings and no “discussion drafts” or actual reform bills were offered in the 116th or thus far in the 117th Congress.

Forage Fish Legislation

Forage fish management is a central component of the current MSA reauthorization. Originally, Rep. Debbie Dingell (D-MI-12) introduced H.R. 2236, the *Forage Fish Conservation Act* back in the 116th Congress. Several RFMCs (i.e. NPFMC, PFMC & MAFMC) submitted substantive comments to Congress on H.R. 2236. In the 117th Congress Senators Blumenthal (D-CT) and Blunt (R-MO) introduced the Senate version (S.1484) back on April 30, 2021.

The *Forage Fish Conservation Act* has now been incorporated into WOW Subcommittee Chairman Huffman’s new MSA reauthorization legislation “SAFFTFA” for the 117th Congress, formally introduced on July 26, 2021. The legislation would amend the Magnuson-Stevens Act to require the Secretary of Commerce to develop a definition of forage fish and require the Regional Fishery Management Councils to establish catch limits for forage fish species, and to reduce the harvest of such species to take into the account their importance in the regional food web. The legislation would also require modifications of existing FMPs on the East Coast to conserve river herring and shad.

Federal Fishery Disaster Reform Legislation

On March 17, 2021 Senators Maria Cantwell (D-WA) and Roger Wicker (R-MS) reintroduced the *Fishery Resource Disasters Improvement Act of 2021* to improve the NOAA fishery disaster process. This bill is essentially S.2346 from the 116th Congress.

Language from a similar House version from CA Rep. Jared Huffman (H.R. 5548, the “*Fishery Failures: Urgently Needed Disaster Declarations Act*”, from the 116th Congress) has been added to the Chairman’s new MSA reform legislation “SAFFTFA”, H.R. 4690, (*See Section 201*).

Government Accountability Office (GAO) & Fisheries Management

The GAO has engaged on two national studies involving U.S. fisheries management as follows: (1) Fisheries Management & Overfishing; and (2) Fisheries Management & Climate Change. The two studies are expected to be completed by mid-2022.

CA Drift Net Ban Legislation with AK Halibut Provision Attached Earns a Presidential Veto in the 116th Congress But is Back Before the 117th Congress

S. 906, the “*Driftnet Modernization and Bycatch Reduction Act*” was introduced by Sen. Feinstein’s (D-CA) on March 27, 2109. The bill was reported to improve the management of driftnet fishing by banning large mesh drift gillnet gear used off CA. The bill passed the Senate on July 22, 2020 and the House on December 10, 2020. The bill was sent to President Trump for his signature on December 21, 2020. The President vetoed the legislation on January 2, 2021.

Embedded within S.906 was a provision on the Recreational Charter Halibut Regional Quota Entity (RQE) that authorizes the creation of an RQE to purchase commercial halibut quota and transfer it to the charter boat halibut sector. The legislation was pushed by Alaska's charter boat fleet as a means to extend halibut recreational fishing seasons and bag limits. The RQE was supported by the North Pacific Fishery Management Council. Note in the last paragraph of the veto statement below a reference to a willingness by the sitting President to accept the RQE provision if moved separately from S.906.

The White House press release on the veto decision of a fisheries bill and in defense of the regional fisheries management council system and commercial fishing families makes for interesting reading and is reproduced here in its entirety.

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January 2, 2021 -- WASHINGTON -- *The following was released by the White House:*

TO THE SENATE OF THE UNITED STATES:

I am returning, without my approval, S. 906, the Driftnet Modernization and Bycatch Reduction Act. America's fishermen have made great sacrifices to ensure that our Nation's marine fisheries are a sustainable economic engine for coastal communities. Under my Administration, the number of United States fish stocks subject to overfishing is at a historic low. This achievement is the result of a transparent and collaborative regulatory process that is supported by regional fishery management councils. At council meetings, fishermen work with Federal Government and State government representatives to meet their statutory obligations under the Magnuson-Stevens Fishery Conservation and Management Act.

In passing S. 906, the Congress has ignored the fact that the regional fishery management process has had strong, bipartisan support since its creation. By forcing the West Coast drift gillnet fishery to use alternative gear that has not been proven to be an economically viable substitute for gillnets, the Congress is effectively terminating the fishery. As a result, an estimated 30 fishing vessels, all of which are operated by family-owned small businesses, will no longer be able to bring their bounty to shore. At a time when our Nation has a seafood trade deficit of nearly \$17 billion, S. 906 will exacerbate this imbalance.

Further, S. 906 will not achieve its purported conservation benefits. The West Coast drift gillnet fishery is subject to robust legal and regulatory requirements for environmental protection that equal or exceed the environmental protections that apply to foreign fisheries. Without this fishery, Americans will import more swordfish and other species from foreign sources that frequently have more bycatch than our own fisheries. If the Congress wants to address bycatch, it should insist on a level playing field for imported seafood instead of crushing American fishing families.

My Administration has done more for American fishermen than any President before me. On May 7, 2020, I signed an Executive Order on Promoting American Seafood Competitiveness and Economic Growth to bolster our domestic seafood industry while curbing illegal, unreported, and unregulated fishing abroad. On June 5, 2020, I issued a Proclamation on Modifying the Northeast Canyons and Seamounts Marine National Monument to open it to commercial fishing that is conducted in accordance with the Magnuson-Stevens Act and other applicable laws, regulations, and requirements. And as fishermen struggled to stay on the water during the pandemic, I issued a Memorandum on Protecting the United States Lobster Industry and later made approximately \$530 million available, through the U.S. Department of Agriculture's Seafood Trade Relief Program, to support the United States seafood industry and fishermen affected by retaliatory tariffs from foreign governments.

My Administration would support provisions of the enrolled bill, if passed separately, which would authorize fee



collection in a different fishery — the Pacific Halibut fishery. This authority is needed to implement a provision of the International Pacific Halibut Commission Convention, to which the United States is a party. However, for the sake of American fishermen nationwide, I will not let the Congress circumvent the fisheries management process by effectively terminating a fishery without appropriate consultation and input from fishery management councils. If this occurred, it would increase our reliance on imported seafood and take away the livelihoods of hard-working Americans and their family businesses. It is my duty to return S. 906 to the Senate without my approval.

DONALD J. TRUMP  
THE WHITE HOUSE,  
January 1, 2021.

Fast forward to 2021, the same legislation (which again includes the AK halibut RQE provision) was reintroduced in both the House (H.R.404) and Senate (S.273). On July 22, 2021 the bill passed the Senate unanimously and is now before the House of Representatives where it is also expected to pass. The Biden Administration is expected to sign the bill into law when it reaches the President’s desk.

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### **NOAA Appointees**

The Senate confirmed Dr. Rick Spinard to be the new Under Secretary of Oceans and Atmosphere and Administrator of NOAA. Dr. Spinard served as NOAA’s Chief Scientist in the Obama Administration and is currently Professor of Oceanography at Oregon State University. Under President Obama, Dr. Spinard was the co-lead in developing the Nation’s ocean research priorities. And Janet Coit has been appointed to replace Dr. Paul Doremus as Chief (“Acting”) of the National Marine Fisheries Service. Ms. Coit directed the Rhode Island Department of Environmental Management for more than ten years. She will also serve as acting Assistant Secretary of Commerce for oceans and atmosphere and deputy NOAA administrator.

### **NOAA Issues**

*On NOAA/NMFS survey Day at Sea (DAS)* -- Overall, the NOAA fleet “white boat” DAS is reportedly down by 50% (since 2005) and has decreased nearly each year since 2017. COVID had significant impacts on the DAS in 2020. NOAA’s Dr. Cisco Werner reported the following DAS comparisons in May 2021, noting the typical annual average for total survey DAS is 3,000.

| <u>VESSEL TYPE</u> | <u>2020 (COVID impacted)</u> | <u>2021 (planned)</u> |
|--------------------|------------------------------|-----------------------|
| White Boat fleet   | 253                          | 1,202                 |
| Charter Vessels    | 84                           | 1,038                 |

On October 20, 2020 a bipartisan group of 19 Senators (incl. AK Senator Lisa Murkowski & OR Senator Jeff Merkley) sent a letter to NOAA pressing on the need for a full complement of fishery surveys during 2021. NOAA responded on December 11, 2020 and provided a Hill staff briefing on the issue.

*On the Standardized Bycatch Reporting Methodology (SBRM)* -- all RFMCs must be compliant by 2/21/22 (i.e. the required 5-yr time frame)

*On the National Bycatch Reduction Strategy Implementation Plan* -- NOAA will prescribe actions for the RFMCs to implement by 2024

*On the Bycatch Reduction Engineering Program (BREP)* – grants were awarded in summer 2020 and annual funding and awards are expected going forward.

*On the issue of stock status changes* – NOAA is currently working on a new policy directive and methodology for stock status changes (i.e. from “known to unknown”). The issue is becoming more common and complicated, due in part aging stock assessments and reduced survey days. The Agency’s stated intent is to reduce ambiguity, help inform difficult decisions, and increase transparency.

*On RFMC member training* -- The first Council Member Ongoing Development (CMOD) session is scheduled for in-person November 2-3, 2021 in Denver, CO. Each RFMC will send four people and NMFS will send 10 staff. The theme is new approaches to Ecosystem Based Fisheries Management (EBFM).

*On NSG #1 Guidance*...NOAA staff are developing a draft tech memo addressing ACLs for data limited stocks pursuant to 50 CFR 600.310(h)(2). The RFMCs now have until early October to provide comment to the Agency’s draft that addresses setting ACLs for stocks that lack data to set ACLs based on amounts of fish, and that must be MSA compliant and include AMs.

*On NEPA reforms*...NOAA published final NEPA regulations back in September 2020 to address NEPA/MSA functional equivalency & compliance procedures. NOAA subsequently issued a NEPA guidance memorandum and proposed a RFMC workshop. The Biden Administration delayed the rule pending further CEQ review. NOAA has subsequently delayed the workshop but functional equivalency work continues with the RFMCs/CCC.

*On RFMC Disclosure/Recusal Requirements*...NOAA issued a final rule on new RFMC disclosure requirements on 9/11/20 with an effective date of 10/13/20. NOAA plans to finalize the associated policy directive and the RFMCs will have 2 years (to 10/13/22) to complete regional compliance handbooks. The new rules will apply to both Council & SSC members.

*On Electronic Monitoring (EM) On Commercial Fishing Vessels*...NMFS is developing a new policy relating to EM data treatment and retention, FOIA applicability, and EM data as it relates to the Federal Records Act. It will also address secondary video review, third party standards, monitoring of EM providers, and the elements necessary to ensure system functionality. A draft EM Policy Directive is slated to be presented to the Regional Fishery Management Councils in late 2021 with a planned implementation date of January 2022.

*On S-K programmatic EIS*...NOAA issued a notice of intent and public scoping meetings on the national S-K research & development program at 86 FR 10941.

*On the Modernizing Recreational Fisheries Act*...on December 14, 2020 NOAA issued a report to Congress on the status of implementation.

*On mitigation policy for trust resources...* on July 7, 2021 NOAA issued a 9-page draft “Mitigation Policy for Trust Resources” for public comment through July 30<sup>th</sup>.

### **Illegal, Unreported & Unregulated Fishing (IUU)**

The 2020 annual defense bill that became law (i.e. “NDAA”; H.R.6395) included a reporting requirement for the Department of Defense, in coordination with the Coast Guard, on inclusion of counter-IUU fishing actions as part of its annual at-sea exercises. In addition, the FY 2021 Omnibus bill included a reporting requirement from NMFS on efforts to curtail illegal seafood imports harvested through IUU fishing.

Interpol has released a study identifying links between IUU and organized crime, with a prevalence in Asia and utilizing difficult to track shell companies in offshore financial havens. Some estimates place IUU fishing being responsible for 20 percent of the world’s catch as well as being a major source of brutal forced labor and human trafficking. More information can be found at the link -- <https://www.interpol.int/en/News-and-Events/News/2020/Fighting-illegal-unreported-and-unregulated-fishing>.

Separately, NOAA has produced its interagency work plan to combat IUU fishing. A subgroup has been assigned to tackle illegal seafood imports. The plan can be found here -- [https://s3.amazonaws.com/media.fisheries.noaa.gov/2020-11/InteragencyWorkPlan\\_asof10.29.2020.pdf?null](https://s3.amazonaws.com/media.fisheries.noaa.gov/2020-11/InteragencyWorkPlan_asof10.29.2020.pdf?null).

On September 29, 2020 the U.S. International Trade Commission (USITC) convened an IUU Roundtable with members of the U.S. seafood industry.

In 2021 Senator Ron Wyden (D-OR) added a fisheries-related provision regarding seafood imports from trafficked labor nations -- to legislation designed to improve U.S. trade and technological competitiveness that has now passed the Senate – the “*Endless Frontiers Act*”. The Wyden amendment establishes a process to prohibit U.S. seafood imports that are harvested or processed using forced labor, including child and human-trafficked labor. U.S. Customs & Border Protection, in consultation with the Department of Commerce, would have one year to issue implementing regulations, relying on data from the Seafood Import Monitoring Program (SIMP), to enforce the prohibition. Senator Wyden’s amendment also includes language directing the U.S. Trade Representative to coordinate with other nations to end international trade in seafood harvested and processed from forced labor.

Similar but much more controversial legislation (H.R. 3075; *Illegal fishing and Forced Labor Prevention Act*) has been offered by Rep. Huffman (D-CA-2<sup>nd</sup>) and Rep. Graves (R-LA-6<sup>th</sup>) and was part of a WOW Subcommittee legislative hearing on July 29, 2021. This legislation would among other things, expand the SIMP to all species; increase data requirements for SIMP, including consideration of labor conditions; improve detection of imports at risk of IUU fishing and labor violations; and increase interagency coordination and data sharing. Additionally, the bill would establish seafood traceability and labelling requirements; increase outreach on seafood safety and fraud; and improve seafood inspections and federal enforcement of seafood fraud. H.R. 3075 would also authorize funding for new Automatic Identification Systems (AIS) and

amend requirements for where AIS must be used by U.S. vessels on vessels greater than 50-ft in the entire EEZ and on the high seas. The bill was included in a legislative hearing by the WOW Subcommittee on July 29, 2021.

Finally, on May 21, 2021 NOAA issued the first report on the results of the implementation of the SIMP during 2019-2020, the first two years of the program.

### **USCG Issues**

*On nautical charts...* The enacted 2020 USCG Reauthorization Act (moved as part of the 2020 NDAA as H.R. 6395) contained a clarification for vessel owners related to e-navigation charts. Under prior law, vessel owners that carried e-charts (either because they are required to or because they choose to...) were also required to carry paper charts on board. All vessels covered under this previous law were required to carry paper charts, regardless of whether or not they have e-charts onboard. The newly passed law gives the option to vessel owners that carry e-charts to be free from the requirement to also carry paper charts. Vessel owners would be allowed to carry paper charts as a backup if they so choose but would not be required to do so. Additionally, NOAA announced in March 2021 it has initiated a process to phase out production of paper nautical charts. The process is expected to be completed by January 2025.

*On the Alaskan Arctic Port Study...* the USCG reopened the comment period for the “Port Access Route Study: Alaskan Arctic Coast” (See 85 FR 40155). The original notice published on December 21, 2018 (83 FR 65701); the comment period was extended on September 4, 2019 (84 FR 46501); and again on January 13, 2020 (85 FR 1793). The new comment period runs to September 30, 2021. The primary USCG contact for the study is [Michael.D.Newell@uscg.mil](mailto:Michael.D.Newell@uscg.mil)

*On the West Coast Port Access Route Study (PARS)...* The USCG has initiated a process to examine the need for a shipping safety “fairway” from WA to CA. This may affect future vessel traffic routes off the West Coast and comments are due by January 25, 2022. Questions about this notification can be directed to the following USCG staff: LCDR Sara Conrad, Coast Guard Pacific Area (PAC-54), U.S. Coast Guard; telephone (510) 437-3813, email [Sara.E.Conrad@uscg.mil](mailto:Sara.E.Conrad@uscg.mil); or Mr. Tyrone Conner, Eleventh Coast Guard District, U.S. Coast Guard; telephone (510) 437-2968, email [Tyrone.L.Conner@uscg.mil](mailto:Tyrone.L.Conner@uscg.mil); or Mr. John Moriarty, Thirteenth Coast Guard District, U.S. Coast Guard; telephone (206) 220-7274, email [John.F.Moriarty@uscg.mil](mailto:John.F.Moriarty@uscg.mil).

*On response to the 2018 CA “Conception” dive boat accident...* The provision in italics below was included in the U.S. Coast Guard section of the DHS Title of the 2021 Omnibus Appropriations bill. The provision is a response to the deadly 2018 *Conception* CA dive boat accident where the captain of the vessel was indicted on February 16, 2021 of 34 charges of manslaughter: *Small Passenger Vessels.-The Coast Guard is encouraged to improve safety standards for small passenger vessels, including those with overnight passengers. This includes addressing means of escape, rechargeable devices, wakefulness alert systems, and interconnected fire detection and suppression systems. The Coast Guard is directed to brief the Committees not later than 90 days after the date of enactment of this Act on these efforts.*

During the week of July 19, 2021 the House Coast Guard & Maritime Subcommittee held a hearing on the USCG's FY 2022 budget request. Rep. Salud Carbajal (D-CA) in his opening remarks and during the question and answer period queried the USCG on the status of its enhanced passenger vessel inspections regime and pending regulatory changes. The Commandant talked about stepped up vessel inspections using the USCG's more experienced inspectors as well as relying more on risk-based and data analytics-driven inspections. He referenced the ongoing rulemaking process that will address some of these issues but did not give a timeline of issuing a final rule, stating that the Agency was "moving on that front".

*On the COVID-19 mask mandate on fishing vessels....* In May 2021 the Coast Guard issued a directive requiring the wearing of masks on commercial fishing passenger vessels, commercial fishing vessels and other passenger vessels. This directive received a host of criticism from the Congress. Senators Lisa Murkowski (R-AK) and Maggie Hassan (D-NH) wrote to the CDC and the Coast Guard in late May urging them to reconsider the mask mandate for commercial fishing vessel. On June 13<sup>th</sup> the Coast Guard reversed its position and eliminated the mask mandate.

### **EPA Vessel Discharge Update**

You will recall back on December 4, 2018, the President signed into law the *Vessel Incidental Discharge Act* (VIDA) as Title IX of the *Frank LoBiondo Coast Guard Authorization Act of 2018*. VIDA restructures the way EPA and the USCG regulate incidental discharges, primarily from commercial vessels, into waters of the United States. Specifically, VIDA amends Clean Water Act (CWA) Section 312 to include a new subsection (p) titled "Uniform National Standards for Discharges Incidental to Normal Operation of Vessels".

Subsection 312(p) of the Act requires EPA to develop new national ballast water standards of performance for commercial vessel discharges and the USCG to develop corresponding implementing regulations. The EPA initiated a 2-year rulemaking to implement the new law. The USCG accepted comments previously on a draft policy for ballast water protocols (back in September, 2019).

The EPA published a proposed rule in November 2020 related to ballast water on commercial fishing boats. The Vessel Incidental Discharge Act (VIDA Act) exempted all commercial fishing vessels (regardless of size) from federal permits for discharges incidental to normal vessel operations. However, Congress applied the ballast water provisions of VIDA to fishing boats thereby creating an unintended consequence in EPA's application of newly crafted national ballast water management standards. More specifically, EPA's definition of ballast water, broadly interpreted, could include such things as refrigerated/ambient sea water, ice/seawater slurry, ice, recirculating seawater for crustaceans, etc. as ballast water.

As such, the November 2020 proposed rule (85 FR 67818) included the following provision... "*As defined in the proposed standards, a ballast tank is any tank or hold on a vessel used for carrying ballast water, regardless of whether the tank or hold was designed for that purpose. Fresh water, sea water, or ice carried onboard a vessel for food safety and product quality purposes is not considered ballast water and, as such, would not be subject to the ballast water requirements in the proposed rule.*"

It remains unclear how the change in Administration and associated regulatory review may/may not impact any subsequent final rule on ballast water management.

### **Monuments/Antiquities Act**

On June 5, 2020 President Trump issued an executive order reversing a decision of the Obama Administration that restricted commercial fishing in the Northeast Canyons and Seamounts Marine National Monument (off the coast of New England). Back in December 2017 President Trump also reduced the size of two terrestrial monuments in Utah, *Bears Ears* and *Grand Staircase-Escalante* which precipitated legal challenges from NRDC and National Audubon.

In late October 2019 the Pacific Legal Foundation/MASS Lobstermen's Association lost the initial legal challenge to the original Obama Northeast Canyons Monument designation. The PLF filed a second related challenge on behalf of stakeholders in the East Coast commercial fishing industry. On March 22, 2021 the Supreme Court rejected hearing the legal challenge to the Obama marine monument, thereby ending the case.

However, in a unique twist Chief Justice John Roberts indicated he was open to considering new restrictions to the president's authority to designate monuments under the Antiquities Act. The issue in question is the law's requirement to protect the "smallest area of land" – not large spaces areas and those in the ocean. The Robert's ruling is expected to open/reopen challenges to numerous monuments and SCOTUS may well address the issue of the smallest compatible area in the near future.

On June 14, 2021 Interior Secretary Deb Haaland recommended President Biden fully restore all three national monuments affected by the Trump Administration's actions, including reinstating the prohibition on all commercial fishing in the 4,913 square nautical miles of the Northeast Canyons and Seamounts Marine National Monument. A final decision is expected by the Biden Administration but the timing is unclear.

### **Seafood EO & Aquaculture**

Back in May 2020 the Trump Administration issued EO 13921 tasking agencies to remove barriers to American fisheries, improve U.S. seafood competitiveness, and develop aquaculture opportunity areas (AOAs). NOAA received numerous recommendations from all RFMCs in November 2020 and that information is being reviewed now. The Agency reported in May 2021 that of the 18 regulatory recommendations, several are currently in process. There were many non-regulatory recommendations and no final actions have been issued on any of those topics. As of the date of this report the Agency continues to review the non-regulatory actions and is expected to forward any of those that may affect other federal agencies.

Specifically on AOAs, NOAA staff has reported the timelines required to designate AOAs pursuant to the EO has slipped by at least 6 months. They are required to designate 10 AOAs within 5 years. So far, 2 AOAs have been targeted in Southern CA and the GOMEX and these are expected to be fully designated by late 2021. There is no action expected on a 3<sup>rd</sup> AOA in the near future. The Agency also plans to publish an AOA Atlas for each region of the country.

The Agency has been taking stakeholder input on the first 2 AOA's, as well as other potential areas to be considered as part of the 10 total AOA's to be designated. So far, there has been support for non-fish aquaculture in AK; support for aquaculture in FL State waters; and opposition to such activities in OR, WA and in New England.

On national aquaculture legislation...back in March 2020 Representative Colin Peterson (D-MN) introduced H.R. 6191 titled "*Advancing the Quality and Understanding of American Aquaculture Act*" ("AQUAA" Act). Unlike prior versions the bill provided a more substantive role for the Department of Agriculture in the development of the U.S. aquaculture industry. *Significantly, the bill failed to provide any coastal State with the ability to opt out of the national program. The 2013 PSMFC Resolution III supports a State opt in/out provision for time, area, species or gear throughout the EEZ.* The bill had joint committee referral to the House Agriculture Committee and House Natural Resources Committee but there were not any hearings in the 116<sup>th</sup> Congress.

In the 117<sup>th</sup> Congress we thought we might see the re-emergence of a Senate *AQUAA Act*, one that had surfaced in prior years and was rumored to be under further development in 2020. So far that has not occurred and an evenly divided Senate makes the potential for passage of this legislation unlikely.

In related activity, on August 5, 2021 the USDA Agricultural Research Service issued a Notice for Comment on Two Strategic Plans for the Subcommittee on Aquaculture Science Planning and Regulatory Efficiency Task Forces and on Updating the National Aquaculture Development Plan (NADP) at 86 FR 42776. The comment period extends to 9/10/21.

### **Saltonstall-Kennedy (S-K) Reform**

The Commerce Committee recently marked up S. 497, the "*American Fisheries Advisory Committee Act*", legislation introduced by Senator Sullivan (R-AK) and Commerce Committee Chairwoman Cantwell (D-WA) to reform the national S-K grant program. The bill would create an advisory committee to guide the grant program's goals and objectives going forward. The bill emphasizes grants to benefit "fishing communities" rather than "seafood industry", a change which authorizes a broader number of eligible objectives, with industry promotion remaining as an objective but no longer the central purpose. The bill also adds the recreational sector to the national grant steering committee, and adds recreational fishing data collection activities to projects that can be funded using S-K grant dollars. The bill was cosponsored by five other coastal Senators, including Senator Lisa Murkowski (R-AK).

Congressman Don Young (R-AK) has offered a similar but different version (H.R.3128) which does not include the less helpful provisions that are in S.497. H.R. 3128 was included in a House WOW Subcommittee legislative hearing on July 29, 2021.

Similarly, House WOW Subcommittee Chairman Huffman included a "Don Young-type" S-K provision in his "SAFFTEA" MSA reauthorization bill (see MSA discussion above and Section 308 of the Huffman MSA legislation H.R. 4690). However, the Huffman provision goes a step further and requires the Secretary of Agriculture to transfer 30% of the gross receipts from duties

collected on imported fishery products and prohibits the Secretary of Commerce from using the funds for anything other than fisheries research and development projects.

### **ESA Revisions**

The Biden Administration has announced it will trigger rulemakings based on Executive Order 13990 designed to reinstate provisions of the Endangered Species Act that were modified under the Trump Administration to make the ESA critical habitat designation process more flexible. This includes removing the options to exclude areas from critical habitat; rescinding the recent new definition of critical habitat; removing the ability to consider possible economic or other impacts to critical habitat designations; and restoring the automatic default that extends protections provided to endangered species to those listed only as threatened (i.e. the “blanket 4(d) rule”). Several new rulemakings are expected this year. For the Trump Administration’s actions subject to reversal *See* 85 FR 82376; 85 FR 81411; 84 FR 45020; 84 FR 44976; and 84 FR 44753.

In separate but related actions, the Biden Administration has moved quickly on proposing controversial ESA changes to critical habitat for the northern spotted owl in OR (86 FR 38246; comment period open to 9/3/21), and listing of two DPSs of lesser prairie-chicken (86 FR 29432; comment period extended to 9/1/21).

### **P.E.T.S. (Protected, Endangered & Threatened Species)**

**Sea Otters:** The USFWS is working on a congressionally-mandated report to determine the feasibility of reintroducing sea otters off the coasts of WA, OR, and CA. The report along with reintroduction is being advocated for by the Elakha Alliance, an OR-based group made up of tribal, conservation and non-profit organizations. The impetus is in part due to the loss of otters as a result of the fur trade, and for otters to help the ecosystem respond to the climate crisis by restoring kelp forests. The USFWS report is due by the end of 2021.



An ad hoc coalition of regional ocean-based stakeholders is raising concerns the reintroduction will among other things -- result in major declines in prey species and negatively impact valuable fisheries for Dungeness crab, sea urchins, shellfish, abalone and sea cucumber, and also lead to increased regulations on vessel/port/maritime activities on the West Coast. There are also concerns being raised the Agency will not thoroughly and critically examine all points of view in their report to Congress.

On August 5<sup>th</sup> the coalition of ocean stakeholders consisting of the: West Coast Seafood Processors Association; Pacific Northwest Waterways Association; National Fisheries Institute; Pacific Coast Shellfish Growers Association; OR International Port of Coos Bay; Port of Astoria; Port of Newport; CA Sea Urchin Commission; Columbia River Crab Fishermen’s Association; OR Dungeness Crab Commission; CA Coast Crab Association; OR Coast Crab Association; WA Dungeness Crab Fishermen’s Association; Coalition of Coastal Fisheries; Fishing Vessel Owners’ Association; Port of Ilwaco; Port of Brookings Harbor; Port of Chinook; Midwater



Trawlers Cooperative; OR Trawl Commission; Fishermen's Marketing Association; Cablefish Accords, Inc; Pacific City Dorymen's Association; and Newport Fishermen's Wives -- sent a detailed comment letter to the USFWS. That same day the *Daily Astorian* ran an article on the issue, reporting the Astoria Port Commission had voted unanimously to sign the coalition's letter of caution to the Agency.

On August 8<sup>th</sup> the *LA Times* ran an op-ed piece calling for the federal government to send in the sea otters to save the kelp ecosystem off Northern CA from the effects of climate change.

**Makah Whaling:** Back on November 14, 2019 NOAA convened a hearing in Seattle before USCG Administrative Law Judge G.C. Jordan on proposed regulations (published at 84 FR 136391 & 13604) to waive the MMPA take moratorium for the Makah Tribe of Neah Bay, WA to harvest a limited number of ENP gray whales for purposes of treaty-reserved ceremonial and subsistence uses. A ruling by ALJ Jordan has been expected since early 2020. On July 2, 2021 West Coast Regional Administrator Barry Thom wrote to ALJ Jordan inquiring about the timing of a decision. The ALJ responded to NOAA on July 28<sup>th</sup> and was noncommittal on timing.

**2020 Marine Mammal Stock Assessments:** In July 2021 NOAA published the "response to comments" & final *2020 Marine Mammal Stock Assessment Reports* (SARs) for 80 species. See 86 FR 38991.

**2022 MMPA Proposed List of Fisheries:** On August 9<sup>th</sup> NOAA published the proposed "List of Fisheries" (LOF) for 2022. Comments are due by September 8, 2021. See 86 FR 43491

**Critical Habitat Designations for West Coast Humpbacks:** Back on October 9, 2019 NOAA proposed to designate critical habitat for several humpback whale DPS's along the West Coast. The proposed areas included marine waters off CA, OR, WA and Alaska. The proposal followed a court-approved settlement agreement with the Center for Biological Diversity (CBD). See 84 FR 54354. On April 21, 2021 NOAA published the final designations as follows: Endangered WNP DPS = 59,411 sq. nm; Endangered Central American DPS = 48,521 sq. nm; and Threatened Mexico DPS = 116,098 sq. nm (See 86 FR 21082).

**Southern Resident Killer Whale DPS:** NOAA has announced its intent to conduct 5-year review of the SRKW under the ESA. NMFS has stated that the purpose of 5-year reviews is to ensure that the listing classification of a species remains accurate. The agency has been soliciting information on the best scientific and commercial data available on SRKWs.

On August 2, 2021 NOAA issued the final critical habitat designation for the SRKW DPS along the U.S. West Coast to include 15,910 square miles (mi<sup>2</sup>) (41,207 square kilometers (km<sup>2</sup>)) of marine waters between the 20-ft (6.1-m) depth contour and the 656.2-ft (200-m) depth contour from the U.S. international border with Canada south to Point Sur, California. One area was excluded -- the Quinalt Range Site (including a 10-km buffer around a portion of the site), comprising 1,400.4 mi<sup>2</sup> (3627 km<sup>2</sup>). See 86 FR 41668. The final rule, maps, and other supporting documents (Economic Report, ESA Section 4(b)(2)) Report, and Biological Report) can be found on the NMFS website at <https://www.fisheries.noaa.gov/action/critical-habitat-southern-resident-killer-whale>.

**NOAA's Species in the Spotlight:** On April 21, 2021 NOAA announced new “Spotlight Action Plans” for 9 species, including Central CA Coast Coho Salmon ESU, Cook Inlet Beluga DPS, Pacific Leatherback Sea Turtle, Sacramento River Winter-Run Chinook ESU, Southern Resident Killer Whale DPS, and White Abalone

**Iliamna Lake Harbor Seals:** NOAA rejected a CBD petition to ESA list Iliamna Lake Harbor Seals on June 29, 2021 (86 FR 34229).

**Beringia Bearded Seal:** NOAA has designated critical habitat for the Beringia DSP of the bearded seal at 86 FR 1433.

### **Idaho Rep. Simpson's Plan to Breach the 4 Lower Snake River Dams**

On March 29, 2021 Rep. Mike Simpson (R-ID-2<sup>nd</sup>) proposed a \$33B plan to remove the 4 lower dams to restore salmon populations. On July 7<sup>th</sup> the Nez Perce Tribe, along with the Affiliated Tribes of Northwest Indians (ATNI) and the National Congress of American Indians (Mid-Year 2021 Resolution AK-21-009) announced their support for the proposal, calling on the Biden Administration to honor its trust responsibility by protecting salmon and orca populations. Rep. Simpson intention was to try and add this provision to the national infrastructure package currently being debated by Congress.

### **Shark Fin Issue Update**

Legislation to ban possession and sale of shark fins (and effectively end commercial shark fishing in the U.S.) may soon become law. In the 116<sup>th</sup> Congress the *Shark Fin Trade Elimination Act* (H.R. 737 & S.877) passed the full House of Representatives with 287 cosponsors on 11/20/19. The Senate version moved through the Commerce Committee (on 4/3/19) and was reported to the full Senate for consideration (on 12/12/19).

On January 23, 2020 the US Department of Commerce Office of General Counsel sent a letter to Senate Commerce Committee Chairman Roger Wicker officially opposing S.877, indicating the legislation would harm U.S. fishermen and not provide for meaningful conservation of sharks. The bill never became law.

However, the change in Administration/Congress has reenergized efforts by some Members of Congress to pass this legislation and the odds for that have increased dramatically under a less business friendly Biden Administration. The Commerce Committee markup on May 12, 2021 S. 1260, the “*Endless Frontiers Act*”, a distinctly non-fisheries related legislation designed to promote technology Endless Frontiers innovation in the U.S. Senator Schatz (D-HI) offered an amendment to S.1260 to include the “*Shark Fin Trade Elimination Act*”, Senator Cory Booker’s (D-NJ) bill to ban all sale/use of shark fins in the U.S. This ban would apply even to U.S. shark fisheries being managed under Fishery Management Plans with full retention and utilization requirements. Under the Booker bill, U.S. fishermen would be required to legally land their sharks with the fins naturally attached, but then remove the fins at the dock and send them to the landfill.

Senators Rick Scott (R-FL), Dan Sullivan (R-AK), and Ted Cruz (R-TX) spoke against the Schatz amendment. Senator Scott offered the shark industry's preferred bill, the "*Sustainable Shark Fisheries & Trade Act of 2021*", which was introduced on May 21, 2021. This approach would allow U.S. shark fishermen to retain their total catch, including the fins, if the fishery is managed under a federal FMP. Imports of illegal shark fins would be targeted by the bill. This includes directing the Secretary of Commerce to include rays and skates into the seafood traceability program to ensure that shark products are not smuggled into the U.S. falsely labeled as rays and skates, two closely related groups. The Scott amendment was defeated by a roll call vote 22-6. The inclusion of a national ban on shark fins in the *Endless Frontiers Act* all but assures the fin ban will be passed by the 117<sup>th</sup> Congress and signed by President Biden.

In a final twist of irony, on the very same day the Senate Commerce Committee approved a bill to essentially end commercial shark fishing in U.S. waters, the State of Florida's Fish & Wildlife Commission convened a public stakeholder forum to discuss how to address the growing shark depredation problems in Florida's commercial, charter and recreational fisheries.

### **Waters of the U.S. ("WOTUS")**

The Biden Administration (via EPA/USACE) issued a notice in June 2021 announcing plans to rescind the Trump Administration changes to the "Waters of the U.S." definition and revisit associated regulations. The current Department of Justice is reportedly filing a motion requesting remand of the Trump rule and restoring protection in place prior to the 2015 WOTUS implementation. A rulemaking process is expected to start later this year to redefine WOTUS and develop implementing regulations. For more information visit <https://www.epa.gov/wotus>

### **Wind Energy**

The Biden Administration is accelerating the wind energy offshore leasing program and has imposed a temporary moratorium on further offshore oil and gas leases. The Department of the Interior's priority list for wind energy includes the New York Bight, Maine, Virginia, The Carolinas, California, the Gulf of Mexico, Hawaii, and Oregon. Both the Department's and NMFS's FY 2022 budget requests are seeking significant funding increases in the assessment of fisheries and fishing industry impacts of the potential wind leasing areas as well as expanded stakeholder outreach.

### **DDT Waste Site off California**

The Scripps Institution of Oceanography scientists used autonomous underwater vehicles and sonar to explore 36,000 acres of an alleged dumpsite off the coast of California between the coast off Los Angeles and Catalina Island. The scientists believe there is evidence of roughly 27,000 barrels of DDT dumped in the survey area. They have briefed Capitol Hill and believe there is evidence the DDT is leaking into the marine environment, poisoning marine mammal populations.

### **Improving Federal Scientific Integrity**

The White House Office of Science & Technology Policy (OSTP) is seeking stakeholder input regarding how to improve the effectiveness of federal scientific integrity. *See* 86 FR 34064. This initiative is consistent with the January 27, 2021 Presidential Memorandum on *Restoring Public Trust in Government through Scientific Integrity*.

### **Organic Labelling for U.S. Wild-Caught Seafood**

On March 18, 2021 and as ordered by Congress the Department of Agriculture held a virtual town hall meeting of the National Organic Program (NOP) to begin to evaluate the feasibility for organic status of wild-caught seafood products.

### **Sustainability Estimate for Alaska Pollock**

In July 2021 the Alaska Pollock industry's sustainability consulting firm *Quantis US* (Boston, MA) produced a new Life Cycle Assessment (LCA) for Alaska Pollock. The report is fascinating and contains an estimate for the total climate impact of the wild Alaska Pollock harvest at just 3.77 kg CO<sub>2</sub>-eq per kg of protein. This figure compares with 12.5 kg CO<sub>2</sub>-eq for chicken, 19.7 kg for pork, and 115.8 kg for beef. By comparison, plant-based meat comes in at 20.83 kg. The report can be found here

[https://www.alaskapollock.org/media/2149/gapp\\_wap\\_lca\\_finalreport\\_july2021\\_quantis.pdf](https://www.alaskapollock.org/media/2149/gapp_wap_lca_finalreport_july2021_quantis.pdf)

### **Next RFMC CCC Meetings**

October 19-21, 2021 - an in-person (?) meeting in Monterey, CA  
May 17-19, 2022 in Annapolis, MD  
October 17-19, 2022 location TBD

### **Some of the Other Fisheries/Ocean & Natural Resource Legislation of Interest in the 117<sup>th</sup> Congress**

- H.R. 660, the *Shovel-Ready Restoration Grants for Coastlines and Fisheries Act of 2021*, a bill to establish a \$3B national grant program for coastal projects that can also involve the use of fishing industry vessels.
- H.R. 1415, the *Tribal Coastal Resiliency Act*, a bill from WA Rep. Kilmer (WA-D-8<sup>th</sup>) designed to create a national grant program to assist tribes with coastal resiliency initiatives.
- H.R. 273 (Rep. Don Young, R-AK), the *Prevention of Escapement of Genetically Altered Salmon in the United States Act*, to prevent the escapement of genetically altered salmon in the United States.
- H.R. 274 (Rep. Don Young, R-AK), the *Keep Finfish Free Act*, to prohibit the Secretary of the Interior and the Secretary of Commerce from authorizing commercial finfish aquaculture operations in the Exclusive Economic Zone except in accordance with a law authorizing such action.

- H.R. 1569 (Rep. Jared Huffman, D-CA), the *Critically Endangered Animals Conservation Act of 2021*, to assist in the conservation of critically endangered species in foreign countries, and for other purposes.
- H.R. 2773 (Rep. Debbie Dingell, D-MI), the *Recovering America's Wildlife Act of 2021*, to amend the Pittman Robertson Wildlife Restoration Act to make supplemental funds available for management of fish and wildlife species of greatest conservation need as determined by State fish and wildlife agencies, and for other purposes. The bill was part of a WOW Subcommittee legislative hearing on July 29, 2021. The Senate version is S.2372, introduced on July 15<sup>th</sup> by Senator Heinrich (D-NM) and referred to the Committee on Environment and Public Works.
- H.R. 2872 (Rep. Matt Cartwright, D-PA), the *SAFE Act*, to establish an integrated national approach to respond to ongoing and expected effects of extreme weather and climate change by protecting, managing, and conserving the fish, wildlife, and plants of the United States, and to maximize Government efficiency and reduce costs, in cooperation with State, local, and Tribal Governments and other entities.
- H.R. 4458 (Rep. Jared Huffman, D-CA), the *KELP Act*, to establish a grant program within the National Oceanic and Atmospheric Administration to award grants to eligible entities for the purpose of carrying out projects on the conservation, restoration, or management of kelp forest ecosystems.
- H.R. 3692 (Rep. Julia Brownley, D-CA), the *Marine Mammal Climate Change Protection Act*, to amend the MMP to direct the Secretary of Commerce to establish a climate impact management plan for the conservation of marine mammals.
- S. 1995 the Sport Fish Restoration Trust Fund Reauthorization -- Senator Maria Cantwell (D-WA) and Senator Roger Wicker (R-MS), along with Rep. Debbie Dingell (D-MI) and Rep. Garret Graves (R-LA), have introduced the *Sport Fish Restoration and Recreational Boating Safety Act of 2021* – a bill that reauthorizes the \$742 million Sport Fish Restoration and Boating Trust Fund program. The program funds state fishery restoration and conservation efforts, boating access and infrastructure, as well as fish stocking programs. Additionally, the legislation would require studies on the impacts of non-motorized vessel use on waterway access as well as the impact of abandoned vessels. Lastly, the bills would reauthorize the Sport Fishing and Boating Partnership Council to advise the Departments of Commerce and Interior. The Senate bill was reported from the Commerce, Science & Transportation Committee on June 16, 2021.
- *Blue Globe Act*: In May 2021 the Senate Commerce Committee approved S. 140, sponsored by Senators Sheldon Whitehouse (D-RI) and Lisa Murkowski (R-AK) the current co-chairs of the Senate Ocean Caucus. The legislation would direct federal interagency committees to accelerate ocean data and monitoring innovation and enhance data management by increasing the focus on technology advancement. This would include an ocean innovation prize; an assessment by the National Academy of Sciences on the creation of an “oceans advanced research project agency”; and development of innovative technology designed to combat Illegal, Unreported, and Unregulated (“IUU”) fishing. The House version (H.R. 3748) was included in a WOW Subcommittee hearing on June 8, 2021.

- Coastal Resiliency Grants: Senators Whitehouse (D-RI) and Cassidy (R-LA) have produced a draft bill – The *Reinvesting in Shoreline Economies and Ecosystems (RISEE) Act* – that would create funding streams for coastal infrastructure and resiliency projects, using a portion of Federal energy lease sales in the OCS. On the West Coast, these funds would come from 50 percent of the revenue derived from offshore wind energy leases. These funds would go to area states using a formula based on project proximity to support coastal restoration, hurricane protection, or infrastructure improvements; mitigate damage to fish, wildlife, and other natural resources, including through fisheries science and research; and implement federally approved marine, coastal, or comprehensive conservation management plans. The bill would also lift the Land & Water Conservation Fund’s state side funding cap of \$125 million. Lastly it creates a dedicated funding stream for the National Oceans and Coastal Security Fund, jointly administered by NOAA and the National Fish and Wildlife Foundation.

- Ocean and Coastal Acidification: In May, the full House of Representatives passed H.R. 1447, the *Coastal and Ocean Acidification Threats Research Act* (“COAST Research Act”) and H.R. 2533, the *National Estuaries and Acidification Research Act* (“NEAR Act”).

The COAST Research Act addresses the effects of ocean and coastal acidification on marine organisms and ecosystems. Specifically, the bill reauthorizes through FY2026 and revises NOAA’s Ocean Acidification Program and the ocean acidification grant program of the National Science Foundation. The bill expands those programs, as well as the ocean acidification activities of the National Aeronautics and Space Administration (NASA), to include efforts to research and monitor the effects of coastal acidification.

The NEAR Act focuses on ocean acidification within coastal estuaries. H.R. 1447 was sponsored by Suzanne Bonamici, with 33 cosponsors, including Don Young (R-AK), Jerry McNerney (D-CA), Jimmy Panetta (D-CA), Derek Kilmer (D-WA), Julia Brownley (D-CA), Peter DeFazio (D-OR), Rick Larsen (D-WA), Earl Blumenauer (D-OR), Jared Huffman (D-CA), and Scott Peters (D-CA). The NEAR Act was sponsored by Representative Bill Posey (R-FL) with 4 cosponsors, including OR Representative Bonamici.

- Sanctuaries off Alaska: In mid-January 2021 Alaska Rep. Don Young introduced H.R. 272 for additional requirements for designation of sanctuaries off the coast of Alaska.

- Regional Ocean Partnerships: On June 16, 2021 the Commerce Committee marked up S.1894 to improve coordination on ocean information and monitoring, and to formalize the regional ocean partners system initially created under the National Ocean Policy. The House version (H.R. 3817) was included in a legislative hearing by the WOW Subcommittee on June 8, 2021.

- Prescott Grants: In the May 2021 markup, the Senate Commerce Committee approved S. 1289, the Marine Mammal Research and Response Act. The legislation was introduced by Chairwoman Cantwell (D-WA) and cosponsored by Senators Sullivan (R-AK) & Murkowski (R-AK). The bill would amend the Marine Mammal Protection Act of 1972 to reauthorize and modify the John H. Prescott Marine Mammal Rescue Assistance Grant Program. The bill would require enhanced data collection on stranded marine mammals; require closer coordination between funded marine mammal stranding network participants and NOAA; authorize larger

grants to network participants; and increase public access to stranding data. The House version of the legislation (H.R. 2848) was included in a legislative hearing by the WOW Subcommittee on July 29, 2021.

- **Fish Culverts:** “*The Surface Transportation Investment Act*”, legislation reauthorizing rail and other non-highway surface transportation programs, includes a new program authored by Senator Maria Cantwell (D-WA) to install new and improved culverts at river and stream crossings, with a focus on expanding salmon and other anadromous fish habitat. The program is authorized at \$800 million/yr. over the next 5 years and would provide grants to States, local governments and tribes to carry out the purposes of the program. The bill has been marked up by the Senate Commerce, Science & Transportation Committee and awaits floor consideration.
- **Puget Sound Recovery:** H.R. 1144 – “*Promoting United Government Efforts to Save Our Sound Act*” or the “PUGET SOS Act” – has passed the House. The bill would establish a new regional program office within the U.S. Environmental Protection Agency (EPA) to support restoration efforts and water quality improvements in the Puget Sound. Funding is authorized at \$50 million per year and would support grants and technical assistance for projects and research. Support for development of salmon recovery plans in the region would be a mission of the new program.

### **Some of the Fisheries, Oceans & Natural Resource Legislation That Became Law at the End of the 116<sup>th</sup> Congress**

- **Save Our Seas Act (S.1982):** This bill, sponsored by Reps. Young (R-AK) and Bonamici (D-OR) in the House and Senators Sullivan (R-AK) and Whitehouse (D-RI) in the Senate. On December 18, 2020, the President signed the legislation and it became Public Law 116-224. Among other measures, the legislation establishes or requires -- a Marine Debris Response Trust Fund to combat marine debris events; a prize for innovation in capturing or preventing plastic waste; a strategy by EPA to reduce plastic from entering the waste stream and improve recycling; and engagement by the U.S. in negotiating further international agreements to reduce marine debris.
- **H.R. 1240, the “Young Fishermen’s Development Act of 2019”**, (Rep. Young, R-Alaska), a bill to preserve United States fishing heritage through a national program dedicated to training and assisting the next generation of commercial fishermen passed Congress and was sent to the President on December 24<sup>th</sup>. The bill was signed into law on January 5, 2021 as P.L. 116-289.
- **Digital Coast Act (S.1069):** Legislation sponsored by Senators Baldwin (D-WI) and Murkowski, the Digital Coast Act – to improve the digitization of U.S. coastal mapping was signed on December 18, 2020 and became P.L. 116-223. The bill seeks greater use and deployment of advanced remote sensing and geospatial imaging by NOAA, in partnership with other Federal agencies, State and local governments and the private sector, with the goals of better mapping of coastal infrastructure, elevation, land use/cover, living resources and habitat, and human uses.
- **S. 910, the “National Sea Grant College Program Amendments Act of 2019”**, (Sen. Wicker, R- Mississippi), a bill to reauthorize and amend the National Sea Grant College

Program Act, and for other purposes, signed on December 18, 2020 and became P.L. 116-221.

- **S. 2981, the “National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2019”**, (Sen. Sullivan, R-Alaska), a bill to reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, and for other purposes was signed by the President and became P.L. 116-259 on December 23, 2020.
- **H.R. 4044, the “Protect and Restore America’s Estuaries Act”**: A bill to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program became P.L. 116-337 on January 13, 2021.
- **H.R. 6395 - the National Defense Authorization Act (NDAA)** for FY2021: A bill which included the USCG Reauthorization Act and language supporting the National Oceanographic Partnership Program (NOPP), Jones Act clarification for offshore wind, and provisions aimed at addressing IUU fishing globally -- was initially vetoed by the President then subsequently overridden by both the House and the Senate in separate votes in late December. The NDAA became law for the 60<sup>th</sup> consecutive year.
- **H.R. 1957 the Great American Outdoors Act**: which provides \$900 million annually for the Land and Water Conservation Fund (LWCF) which uses revenues from offshore oil and gas drilling for a host of conservation projects around the country passed Congress and became P.L. 116-152 on August 8, 2020.
- **S.3051 America’s Conservation Act**: Reauthorizes the North American Wetlands Conservation Act and authorizes \$1.1 billion in conservation programs, including significant investments in the Chesapeake Bay and wetlands conservation passed Congress and became P.L. 116-188 on October 30, 2020.
- **S.2981 the NOAA Corps Amendments Act**: A bill which revises certain provisions related to the NOAA Commissioned Officer Corps, especially workforce issues passed Congress and became P.L. 116-259 on December 23, 2020.
- **S.881 the Promoting Research and Observations of Space Weather to Improve Forecasting of Tomorrow (PROSWIFT) Act**: A bill which includes provisions to improve the ability for the U.S. to forecast space weather events and mitigate their effects passed Congress and became P.L. 116-181 on October 21, 2020.
- **H.R. 5126, the “Direct Enhancement of Snapper Conservation and the Economy through Novel Devices Act of 2019” or “DESCEND Act of 2019”** (Rep. Graves, R-LA), a bill to require individuals fishing for Gulf of Mexico reef fish to carry (but not use) certain descending devices. This bill passed Congress on December 21, 2020 and became P.L. 116-340 on January 13, 2021.

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August 10, 2021**