

Washington, D.C. Year in Review

Rick Marks
**Robertson, Monagle
& Eastaugh**
PSMFC 2024



Washington, D.C. Year in Review Rick Marks, PSMFC 2024

- Fishery Disasters
 - NOAA Organic Act
 - 118th Legislation
 - SCOTUS & Fish!
 - *BYCATCH*
 - NOAA/Update
 - SIMP/IUU
- Aquaculture
 - “30x30”
 - EPA & USCG
 - Offshore Wind
 - Protected Species
 - PSMFC “*Grab Bag*”
 - Fall Reading & Streaming Tips!

Fishery Disasters #1: “FISHES” Act

- 8/1/23: Rep. Donalds’ (FL-R-19th) H.R. 5103, the “*Fishery Improvement to Streamline untimely regulatory Hurdles post Emergency Situation Act*” (FISHES Act); 39 cosponsors (AK, CA, FL, NY & GOMEX); S. 4262 (5/2/24; identical bill; FL/AK cosponsors)
 - * Adds 30-day deadline for OMB to issue final spend plan decision
 - * 8/9/23: ASMFC letter supporting H.R. 5103
 - * 10/25/23 HNR WWF Subcommittee hearing; ASMFC testifies in support
- ROMEA trying to address all OMB bottlenecks (i.e. initial disaster declaration; fishery-specific allocations; final spend plan & release of funds to NOAA)
- Rep. Mace (SC-R-1st) draft bill “*Protect American Fisheries Act of 2024*” would amend MSA fishery disaster provisions to include “economic” causes precipitated by foreign entities on U.S. seafood markets (7/16/24)
- “FISHES” Act has +18% chance of passage; status of Rep. Mace provision uncertain

Fishery Disasters #2

- 11/21/22: AK Sen. Sullivan initiates national GAO study on MSA fishery disaster process; data gathering & study approach development ongoing in 2024
- 11/10/23: Senate Committee on Indian Affairs AK field hearing: “Impacts of Historic Salmon Declines on the Health & Well-being of AK Native Communities Along the Arctic, Yukon, and Kuskokwim Rivers”
- CA Sacramento & Klamath Fall Chinook 2023 disasters approved 4/12/24
- AK Bering Sea Snow Crab 2023/2024 approved 4/29/24
- AK Chignik Salmon 2022 approved 5/24/24
- AK Upper Cook Inlet East Side Set Net 2023 approved 5/24/24
- CRS Report “Fishery Disaster Assistance”; A.R. Marshak, 8/30/2024
<https://crsreports.congress.gov/> (Rpt. No. RL34209)



NOAA Organic Act: Is it Compost?

- **2023:** Retiring Science Committee Chair Rep. Frank Lucas (OK-R-3rd) introduced H.R. 3980, the “*National Oceanic & Atmospheric Administration Act of 2023*” (21-pgs) to make NOAA an independent agency (like EPA & NASA); recommends study to transfer all ESA/MMPA duties to USFWS
- **In 2023:** House & Senate hearings; ROMEA Science Committee staff briefing; PSMFC (Resolution 2023-D), GSMFC & ASMFC send letters opposing H.R. 3980
- Referred to Science, Space & Technology and NRC: NRC majority staff registers concerns; 13 cosponsors (all R’s); no committee action; 9% chance of passage
- **8/29/23** Senate Commerce Committee Chair Cantwell (D-WA) 275-pg draft still in development; comprehensive but does NOT remove NOAA from Commerce; preliminary PSMFC/ROMEA review: Some positive, mostly neutral, no major red flags
- **Conclusion:** *As of today this looks & smells a lot like compost...*



Some Legislation of Interest #1

- “*Sustaining America’s Fisheries for the Future Act*” (H.R. 8862; Rep. Huffman, CA-D-2nd); reforms the MSA; (Version 3.0; 7/16/24); no chance of passage; marker for the 119th Congress
- “*Recovering America’s Wildlife Act of 2023*” (S. 1149; Sen. Heinrich, D-NM); funds conservation & restoration, very popular with States; less mojo this Congress; related bill “*America’s Wildlife Habitat Conservation Act*” (H.R. 7408; Rep. Westerman, AR-R-4th); HNR approval (4/16/24); passage unlikely
- “*Coastal Habitat Conservation Act of 2023*” (H.R. 2950; Rep. Huffman); HNR approval (1/17/24); very popular with State & local partners; 47% chance of passage



Some Legislation of Interest #2

- “*Working Waterfronts Preservation Act*” (AK Sen. Murkowski; S.3180) & “*Keep America’s Waterfronts Working*” (H.R. 6641), plus 8 other related bills; popular but never sticks
- “*Harmful Algal Bloom and Hypoxia Research and Control Amendments of 2023*” (H.R. 6235); HNR approval 3/12/24; related bill S.3348 (AK Sen. Sullivan); Commerce Committee approval (7/31/24); +30% chance of passage
- “*Modernizing Access to Our Public Oceans Act*” (MAPS Act; H.R. 7925; Rep. D’Esposito, NY-R-4th); +19% chance of passage; TX Sen. Ted Cruz developing related bill so chance of passage increasing
- “*Federally Integrated Species Health Act*” (FISH Act; H.R. 872; Rep. Calvert, CA-R-41st; quiet since 4/11/23; 7 cosponsors (CA-6 & ID-1); getting increased attention from HNR Committee; amends ESA, transfers management authority from NOAA to USFWS for anadromous/catadromous species; 9% chance of passage

SCOTUS on Fish #1

- 6/28/24: Court rules 6-3 on *Loper Bright Enterprises v. Raimondo*; overturning *Chevron v. NRDC* (1984; a.k.a “*Chevron*” Doctrine); ends 40-yr practice of court deference to federal agencies’ interpretations of ambiguous federal laws
- “*Loper*” decision from 2 commercial fishing-related challenges to a NOAA rule requiring vessel owners operating in the Atlantic herring fishery to pay for federally-mandated at-sea observers
- 7/10/24: House Natural Resources & Oversight Committees send letter to DOC/DOI/DOE/HHS & CEQ requesting information on steps being taken to comply with Court ruling
- 7/23/24: House Committee on Administration hearing “*Congress in a Post-Chevron World*”



SCOTUS on Fish #2

- 7/23/24: 11 Democratic Senators (led by MA Sen. Warren, incl. OR Sen. Wyden) introduce the “*Stop Corporate Capture Act*” (SCCA) to codify the *Chevron* doctrine in federal law
- 7/26/24: 10 GOP Senators form *Chevron* Work Group to develop a strategy to “reclaim legislative authority”
- Impacts to industry paid at-sea observer programs: SCOTUS only overturned *Chevron*; the observer issue in both cases was remanded back to the district courts (which applied *Chevron* in their prior rulings against the industry) for further judicial review to be provided to SCOTUS, so more to come; by comparison, MSA Sec. 313 on the North Pacific Observer Program is not ambiguous and required no *Chevron* application



SCOTUS on Fish #3

- MSA is 8-yrs overdue for reauthorization, the *Chevron* ruling will impact revisions
- Impacts writ large: Can Congress police 439 federal agencies & 200,000 pages of federal regulations? There were +3000 new regulations in 2023. The Congressional Review Act (CRA) is a tool Congress uses to overturn federal agency actions, it has only been used 20X since 1996, could this dynamic shift?
- What else we *could* see: Congress more involved with clarified intent; legislative history becomes more relevant; Hill staff drafting becomes more critical; potential for increased litigation with district court judges becoming more impactful with judicial rulemaking, etc.
- Right now, what we have is a landmark decision that awaits the application of outside pressures to move precedent in some direction that is not yet clear...



BYCATCH #1

- 11/6/23: *“Defending Efforts by the NPFMC to Reduce Bycatch”* (Anchorage Daily News by DV Lang for ADFG)
- 12/20/23: *“There is a Crisis in the Yukon River”* (Washington Post/ADN); AK Sen. Sullivan responds citing efforts by AK Salmon Research Task Force
- 12/22/23: District Court on AM123 halibut bycatch by AM80 fleet; Halibut Defense Alliance intervenes on the side of NOAA (2/29/24); Sitka, AK Assembly supports restrictions but does not intervene (5/28/24); final decision Nov 2024
- 1/17/24: Emergency Petition (Version 2.0) filed by Western AK Tribal Groups to close Bering Sea Pollock Fishery over chinook bycatch; rejected by Sec. of Commerce (4/18/24)
- 7/10/24: GAO Report *“Federal Fisheries Management: Efforts to Reduce and Monitor Unintentional Catch and Harm Needs Better Tracking”* (GAO-24-106336)

BYCATCH #2

- 5/17/24: AK Rep. Peltola (D) introduces two national bycatch related bills --
 - *“Bottom Trawl Clarity Act”* (H.R. 8507) to restrict trawling and reduce bycatch; highly controversial, 50+ commercial fishing, seafood processing and coastal communities from AK & the Nation send opposition letter to Congress; 2% chance of passage, could become part of 2025 MSA discussion via H.R. 8862
 - *“Bycatch Reduction and Mitigation Act”* (H.R. 8508) to increase funding for NOAA’s Bycatch Reduction Engineering Program (i.e. “BREP”; \$2.5M to \$10M), and to create a national grant program accepting donations for research, esp. on smaller vessels; 6% chance of passage
- 8/16/24: Oceana/Earthjustice sue NMFS (AK District Court) over failure to protect seafloor from trawling; NGO press release cites Rep. Peltola’s H.R. 5807; Case 3:24-cv-00180
- NOAA Proposed Rule to revise MSA’s Bycatch National Standard Guideline #9 expected 2024



NOAA #1

- **2023: Final National Seafood Strategy; Draft Implementation Plan expected 2024**
- **5/15/23: ANPRM on Revisions to NSG's #4 (allocation), #8 (community impacts), #9 (bycatch); (88 FR 30934); focus on climate change & EEJ; Proposed Rule expected 2024**
- **Final revisions to the Fisheries Climate Governance Policy Procedural Directive for MSA 304(f) expected in 2024; website roll out only, no FR notice**
- **3/4/24: Final Rule on Electronic Monitoring (EM) in West Coast Groundfish Fishery; Service Provider Provisions (88 FR 81354)**
- **3/11/24: Propose Rule on MSA Data Confidentiality (89 FR 17358); issues related to data availability, MMPA/ESA, LAPPs & EM; Final Rule 2024?**
- **4/12/24: NOAA 2022 Fisheries Economics of the U.S. Report**
- **5/2/24: NOAA 2023 Status of the Stocks Report**
- **5/29/24: NOAA Final Rule on AK Cook Inlet Salmon FMP Amendment #16 (89 FR 34718)**



NOAA #2

- **8/7/23: Findings on Recreational Fishing Effort Survey (FES) design**
 - **4/29/24: NOAA Guidance on MRIP FES; follow-up study; issues = communication, recalibration & allocation**
 - **4/30/24: Bicameral Congressional Member letter to NOAA urging MRIP be fixed**
 - **5/29/24: NOAA initiates recreational fisheries data “re-envisioning” process**
 - **6/27/24: Rep. Graves (LA-R-6th; retiring) introduces H.R. 8705, the “*Fisheries Data Modernization and Accuracy Act of 2024*” to “reform” MRIP; HNR/WWF hearing (7/27/24); controversial, with national implications; “savings” clause added to prevent undermining of existing State programs; bill undergoing revision; no Senate companion, 2 cosponsors; 12% chance of passage**
- **CCC mtgs: October 18-19, 2023; May 21-23, 2024; July 24, 2024 (EBFM); and October 16-17, 2024 in Washington, DC**
- **EBFM: NOAA revising “*Road Map*” to EBFM Policy 01-120 “to better incorporate climate change, fisheries management & offshore wind”**



SIMP & IUU

- 12/23/21: *“Uygher Forced Labor Protection Act”* (P.L. 117-78); prohibits seafood imports from China produced with forced labor
- 10/24/23: Hearing by U.S. China Commission on forced labor in U.S. Seafood Industry: *“From Bait to Plate: How Forced Labor in China Taints America’s Seafood Supply”*
- 11/14/23: NOAA withdraws SIMP expansion; initiates internal program review; webinars/workshop early 2024, process ongoing
- 4/1/24: Draft legislation: *“Stop Allowance of Forced Exploitation in Seafood Supply Chain Act”* (SAFE Act) would ban all seafood imports from China
- 5/3/24: NOAA Reports to Congress
 - 2023 SIMP Status Report
 - Maritime Security & Fisheries Enforcement Act Interagency “SAFE” Act Work Group Report on IUU Fishing in 2022
- 7/9/24: DHS/CBP Forced Labor Task Force adds “seafood” as a priority enforcement focus

Aquaculture

- 2022 PSMFC Resolution is comprehensive; does not support offshore aquaculture without concurrence of the affected State(s)
- Center for Food Safety & “Don’t Cage Our Ocean Coalition” ESA lawsuit v. USACE on national *Permit 56* authorizing industrial finfish aquaculture structures in marine & estuarine waters; Case 2:22-cv-01627 ongoing
- *“Advancing the Quality and Understanding of American Aquaculture Act”* (AQUAA Act) S.1861/H.R.4013; heavy Ag focus; incl. coordination but no State “opt in/out” provision; no action
- Rep. Bonamaci (OR-D-1st) H.R. 3951; *“Sustaining Healthy Ecosystems, Livelihoods and Local Seafood Act”* to create Office of Aquaculture at USDA; related S. 2211; no action
- H.R. 5944; *“SEAFOOD Act”*; requires NOAA development assessment program for offshore aquaculture; no action
- AK Rep. Peltola’s *“Domestic Seafood Production Act”* (DSPA) to prohibit offshore industrial finfish aquaculture until authorized by Congress; no action
- 2/20/24: NOAA releases Draft “National Aquaculture Development Plan” & “Strategic Plan for Aquaculture Economic Development” (89 FR 12826)



“30x30”

- 1/27/21: Climate Crisis EO 14008 Sec. 216(a) requires “conserving at least 30% of U.S. lands and waters by 2030” (a.k.a. “30x30”)
- Since January 2022, Federal Interagency WG developing the “*American Conservation and Stewardship Atlas*”
- 7/14/23: RFMCs/CCC publish “An Evaluation of Conservation Areas in the U.S. EEZ”; defines “conservation areas”; 648 areas; 3.4M acres; ~ 72% of EEZ; PSMFC 2022 Resolution supports CCC definition of “conservation areas” in marine waters
- 4/19/24: Administration launches [conservation.gov](https://www.conservaion.gov) highlighting the “*Rapid Acceleration of Locally-Led Efforts to Conserve, Protect & Restore Lands & Waters Across America*”; preliminary framework includes beta version of the “Atlas”
 - U.S. on track but has not yet met the “30x30” goal
 - 1/3 of U.S. marine waters conserved with 26% in MPA’s
 - “*More work remains to conserve a geographically represented, ecologically-connected, and climate-resilient set of marine areas off all U.S. coasts*”



Monuments/Sanctuaries/EEJ #1

- “PRIME” (*Heart of the Ocean*) Sanctuary petition from Pribilof Aleuts for a 100-mile “co-managed” area; added to NMS designation inventory (2022); As of December 2023 NOAA had no plans to initiate designation process but this does not remove it from Antiquities Act monument consideration
- 12/1/23: Biden Administration releases the “*U.S. Ocean Justice Strategy*”; a report by the White House Ocean Policy Committee
- 12/8/23: United Nations COP28 Climate Change Meeting announces 1st ever “*Strategy to Advance Environmental Justice for Communities That Rely on the Ocean and Marine Resources*”; builds upon the U.S. “Ocean Climate Action Plan” & “Tackling the Climate Crisis at Home and Abroad” Initiatives
- 3/18/24: National Academy Report “*Assessing Equity in the Distribution of Fisheries Management Benefits: Data and Information Availability*”

Monuments and Sanctuaries #2

- 7/18/23: CCC sends letter to NMFS/NOS re: clarifying the process for establishing fishing regulations in marine sanctuaries; Agency policy guidance revisions ongoing in 2024
- 8/25/23: NOS proposes to designate the Central CA Chumash Heritage National Marine Sanctuary (88 FR 58123); process ongoing in 2024
- 1/2/24: CRS Report “National Monuments and the Antiquities Act”; See <https://crsreports.congress.gov/> (Rpt. No. R41330)



- P.L. 115-282 (12/2018) incl. Title IX the *Vessel Incidental Discharge Act (VIDA)*; 2-yr for EPA to create national ballast water management standards, incl. on commercial fishing vessels; ballast water defined as “any liquid, carried in any manner, that may affect stability”
- EPA published a PR in 2020 which contained a clarification:
“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.”; Final ballast water rule expected 2024
- EPA yet to rule on CA Air Resources Board (CARB) proposed revisions to emissions rules for commercial harbor craft, incl. mandatory use of diesel exhaust particulate filters which are not approved for use and known to catch fire; USCG letter to CARB states the Agency will not enforce the CA rule (2/21/24)
- 5/15/24: 17 States file suit against CARB challenging the proposed revisions under the Constitution’s “equal sovereignty” clause



- 2019 CA *Conception* accident cost 34 lives: Capt. N. Boylan sentenced to 4-yrs in federal prison for “seamen’s manslaughter” (5/2/24)
- Congress passed “*Small Passenger Vessel Safety Act of 2021*” requiring USCG to improve watch keeping, fire detection, training, egress, construction & hazardous items; all “non-compliant” vessels to cease overnight operations in December 2023
- Sportfishing Association of CA/Ken Franke successfully amend the 2024 NDAA (P.L. 118-31); 2-yr extension provides CA & West Coast fleets critical time to coordinate with the USCG to address final egress construction requirements
- DHS/USCG ongoing evaluation of the Alaskan Arctic Coast Port Access Route; questions to Michael.D.Newell@uscg.mil
- 8/30/24: Revised policy on commercial fishing vessel construction requirements; (89 FR 70654)

Offshore Wind #1

- 2021 EO 14008 *Tackling the Climate Crisis at Home and Abroad* calls for a doubling of offshore wind energy by 2030; Executive Action *To Jumpstart Rapid Wind Energy Development* calls for “30 gigawatts (GW) of new offshore wind energy power generation by 2030”
- 10/26/23: Senate Committee on Natural Resources hearing on offshore energy; BOEM & NOAA testify
- 11/1/23: BOEM approves Nation’s 6th OSW commercial scale project
- 11/1/23: Orsted pulls 2 flagship NJ projects; \$2B loss due to inflation & supply chain
- 12/4/23: TNC & NOAA announce 1st ever fish tagging study to “Explore the Relationship Between Fish Behavior and OSW Energy Construction” (East Coast-VA)
- 1/9/24: Sen. Whitehouse (RI-D) released draft bill “*Create Offshore Leadership & Livelihood Alignment By Operating Responsibly and Together for the Environment Act*” (COLLABORATE Act); formal bill never introduced

Offshore Wind #2

- 1/20/24 & 8/13/24: East Coast OSW House majority #2 & #3 field hearing events
- 1/25/24: *“Offshore Wind Farms May Have Serious Cyber Vulnerabilities”*
(The Maritime Executive)
- 3/22/24: Biden Administration revises rules to make it easier for OSW developers to claim a subsidy for facilities in areas that have historically relied on the fossil fuel industry for employment (Reuters)
- 4/24/24: DOI releases 5-Year Renewable Energy Leasing Schedule Timeline
 - 2024: Central Atlantic; Gulf of Mexico, Oregon
 - 2025: Gulf of Mexico
 - 2026: Central Atlantic
 - 2027: Gulf of Mexico, New York Bight
 - 2028: California, Gulf of Maine, Hawaii, Guam




Offshore Wind #3

- 4/22/24: *“Three New York Wind Projects Nixed”* (B. Storrow/E&E News/Politico); 4 GW loss; *BloombergNEF* reports cost of OSW construction increased 60% during 2021-2024
- 5/16/24: Biden Administration Celebrates Progress in Domestic OSW Energy; pledges \$1B in federal subsidy support; publishes *“Floating Offshore Wind Shot: Progress and Priorities Report”*
- 6/24/24: *“Green Sand Threatens Biden’s Offshore Wind Ambitions”* (H. Richards/E&E News); Glauconite in 4 East Coast Lease Areas, increasing costs & construction problems; BOEM says it poses “significant risks”; USGS currently surveying mineral distribution
- 7/21/24: *“Feds Shut Down Vineyard Wind Project Following Turbine Blade Failure”* (B. Beaubouef; Offshore); 1st large-scale U.S. farm in initial operations; 5 of 62 turbines off Nantucket RI; power generation & construction halted pending investigations; limited restart (8/13/24); similar blade failures in UK, Germany & Sweden reported by Reuters



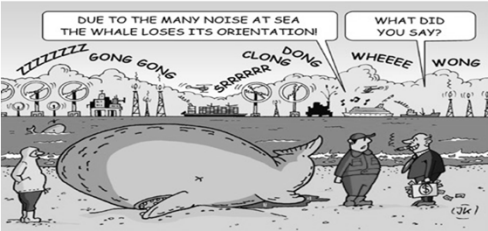
Offshore Wind #4



- 8/15/24: “NJ Terminates Ocean Wind Projects Amidst Environmental Concerns” (D. Shockey/Tampa Free News); cites environmental impacts from July RI blade failure; Orsted reports \$575M in “impairment” losses, Revolution Wind project delayed to 2026 (Workboat, 8/16/24)
- 7/22/24: “Energy Permitting Reform Act of 2024” (Sens. Manchin (WVA-I) & Barrasso (WY-R)) to reform FERC, energy grid, permit fossil fuels, codify OSW 30 GW by 2030; Members want to add the “RISEE Act” (S.373) for coastal state OSW revenue sharing; Dems/NGO’s prefer H.R. 6747 – the “Clean Electricity & Transmission Acceleration Act” which codifies 50 GW by 2035; outlook for passage bleak
- 1/18/24: “Wind Industry Activity Strongly Correlated With Whale Deaths” (L. Linovres & E. Turner; in *Environmental Progress*, for the Save the Right Whales Coalition); authors cite 48% increase in whale deaths overall; 60% increase off States with significant OSW activity; vessel track data overlays with OSW sonar activity shows increased deaths & positive correlation with OSW vessel activity & whale deaths

Offshore Wind #5

- 1/25/24: NOAA/BOEM release Final Joint Strategy on North Atlantic Right Whales & OSW
- 8/7/24: NOAA 23-year (2009-2023) East Coast Large Whale Strandings Data (not including fishing gear interactions)
 - Average annual strandings (2009-2023) = 53
 - Average annual strandings (2019-2023) = 58
 - Total strandings in 2023 = 83
- 2023: NOAA/BOEM/MMC position remains unchanged: OSW energy development does not cause mortalities of large cetaceans, including North Atlantic Right Whales



Offshore Wind #6

- CA: Goal 5 GW by 2030 & 25 GW by 2045; BOEM initiates 2027 lease process; CA Energy Commission Final Strategic Plan (7/10/24); BOEM to complete PEIS on 5 lease areas in 2024 (NOI at 88 FR 88107); CA projects sued by commercial fishing group citing industry & sanctuary impacts (4/25/24; M. Lovely, Santa Barbara Independent)
- OR: BOEM Lease Sale for WEA's on 10/5/24; State working on "Concurrence with Conditions" & developing an "Offshore Wind Roadmap" with "Exit Ramps" pursuant to HB 4080; OR Delegation presses BOEM to extend comment period for activities off OR (3/12/24); Gov. Kotek letter to BOEM raises stakeholder concerns (4/16/24); BOEM finalizes "No Significant Impact" EA findings for OR leases (8/14/24)
- WA: Zero new activity to report; two prior unsolicited lease requests static; BOEM's recent 5-yr plan does not include WA as a viable option



Protected Species #1: Otters



- FY21 Appropriations Conference Report instructed the USFWS report on feasibility & cost of reestablishing sea otters on the Pacific Coast; PSMFC 2021 Resolution supported a fair and balanced comprehensive report
- USFWS Final Report (7/5/22): Reintroduction is “feasible” but report contains no quantifiable estimates of social or economic impacts, specific proposals, or timelines
- PSMFC Resolution 2023-L supported a comprehensive Agency review to fully understand all impacts to marine stakeholders prior to reintroduction; PSMFC letter to USFWS (11/21/23); USFWS response (12/19/23) -- outreach processes & information gathering to continue, no Agency proposal to proceed with reintroduction at this time
- “*Tribal Leaders On the Coast Call for Action to Return Sea Otters to OR*”; Confederated Tribes of Coos, Lower Umpqua & Siuslaw (CTCLUSI) & Confederated Tribes of Siletz Indians (CTSI) send letters to DOI requesting prioritizing reintroduction (The World, 7/15/24)
- 8/21/24: USFWS “Open House Report” to Congress on June 2023 mtgs in CA/OR; <https://www.fws.gov/project/exploring-potential-sea-otter-reintroduction>

Protected Species #2: West Coast MMPA TRT

- NOAA-CBD settlement on whale entanglements in sablefish pot gear off CA/OR/WA; Case 3:22-cv-00117-JD, Doc. 297 (3/15/23)
- NOAA & States initiate scoping process to establish MMPA Take Reduction Team (TRT)
 - WA/OR/CA Dungeness Crab fisheries
 - CA Spot Prawn fishery
 - Federal Sablefish pot fisheries
- TRT must be set by 10/31/25; 1st mtg scheduled for 11/30/25; <https://www.fisheries.noaa.gov/west-coast/marine-mammal-protection/west-coast-take-reduction-team>
- 2023: West Coast Humpback stock structure revised from 3 stocks to 5 (4 listed as MMPA “Strategic” stocks)
 - * Former Central NP + West NP (AK) + CA/OR/WA (Pacific) became...
 - * WNP + HI + Mex/NP (AK); Cent. Ameri/So. Mex/CA/OR/WA; Mainland Mex/CA/OR/WA (Pacific)



Protected Species #3: Vessel Speed Rules

- **2021: NGOs case on NA Right Whales; NOAA PR to amend rules for 10-knots for boats \geq 35-ft, ME to FL, for 7-months, out to ~ 100-mi (8/1/22), +90,000 comments; NGO petition denied (1/20/23); HNR hearing (6/6/23); Congressional Boating Caucus Hill Briefing (11/10/23); AK Rep. Peltola letter to NOAA opposing speed rule (12/11/23) & introduces H.R. 8704 to delay NOAA speed rule to 2031 (6/12/24); HNR WWF hearing (6/27/24); NOAA confirms final speed rule at OMB (7/22/24)**
- **NOAA rejects NGO petition for vessel speed rules for Rice's Whale in GOMEX; +75,000 comments (10/27/23); "R.I.C.E.'s Whale Act" (H.R. 6008) to prevent NOAA finalizing speed rules approved by HNR Committee (11/8/23)**
- **West Coast: Voluntary speed rules from 2020-21 NGO petition/lawsuit; May 1-Dec 15 off San Fran, Monterey & So. Cal; rumors NGO's to seek mandatory, permanent and expanded areas**
- **Q: Does this issue become a component of West Coast MMPA TRT negotiations & North Pacific Right Whale conservation efforts in Alaska?**



Protected Species #4

- **Makah 2005 MMPA waiver application to resume treaty-reserved C&S whaling on ENP gray whales**
 - * **11/17/23: NOAA published Final SEIS (88 FR 80300)**
 - * **3/15/24: NOAA closes 2019 UME; population +32.6%**
 - * **6/13/24: NOAA publishes waiver approval (89 FR 51600)**
 - * **7/21/24: Anti-whaling activist Paul Watson arrested in Greenland; Japan seeks extradition for criminal prosecution; Watson remained in custody until extradition hearing 9/5/24**
- **2/16/24: NOAA 2024 MMPA List of Fisheries (89 FR 12257)**
- **4/4/24: USFWS/NOAA Final Rule on ESA Sec. 4 Listing & CH designation (89 FR 24300); H.R. 5504 introduced to force withdrawal of the rule but gets no traction**
- **4/17/24: NOAA initiates ESA 5-yr review of Western DPS for Steller Sea Lion (89 FR 27417)**



Protected Species #5

- 12/1/23: NOAA reports cause of death of 11 ENP Resident Killer Whales (10 industry & 1 NOAA survey); takes still remain < PBR
- NOAA 90-day warranted finding on petition by CBD & Pacific Rivers to ESA list WA Coast Chinook & Designate Critical Habitat (12/7/23; 88 FR 85178)
- 12/28/23: CBD files suit against NOAA for failing to protect Pacific Leatherback sea turtles from sablefish pot gear; recommends mandatory “ropeless” gear
- NOAA 90-day warranted finding on petition by Wild Fish Conservancy to ESA list any Gulf of AK Chinook DPS & Designate CH (5/24/24; 89 FR 45815)
- San Francisco Bay-Delta DPS of the Longfin Smelt Endangered listing by the USFWS (7/30/24; 89 FR 61029)
- 8/15/24: Contemporary sightings of eastern North Pacific right whales, 2006-2023; Crance & Kennedy (2024); ESR 54:427-441



PSMFC “Grab Bag” #1

- U.S. signs United Nations’ *“Biodiversity of Areas Beyond National Jurisdiction Agreement”* (BBNJ; 9/20/23); US ratification requires 2/3rds Senate approval
- *Puget Sound: Further Actions Could Improve Efforts to Address Impaired Water Quality that Threatens Salmon*; (GAO-24-105687; 11/8/23)
- Marine Mammal Commission annual meeting, Washington, D.C. (11/14/2023)
- Congress establishes the “American Seafood Caucus” (11/22/23); includes Rep. Kilmer (WA-D; retiring) and Rep. Peltola (AK-D)
- Executive Order “*Strengthening the Ban on Russian Seafood Imports*” (#14024) expanded to Russian seafood processed in other Countries (12/22/23)
- Senate Resolution 573 Commemorating the 50th Anniversary of the 1974 “Boldt Decision” (3/7/24)
- Boundaries of the “U&A” fishing areas for the Hoh Indian Tribe revised (89 FR 59676; 7/23/24)



PSMFC “Grab Bag” #2

- 5/3/24: MAFAC gets 3 new members: CA (1) & WA (2)
- 9 members appointed to the new American Fisheries Advisory Committee to guide the national S-K grant process
- 6/3/24: Biden Administration releases
 - National Strategy for a Sustainable Ocean Economy
 - National Ocean Biodiversity Strategy
 - National Aquatic Environmental DNA Strategy
- Final AK Salmon Research Task Force Report to Congress & Commerce (7/12/24)
<https://www.fisheries.noaa.gov/Alaska/ecosystems/Alaska-salmon-research-task-force>
- USFWS to introduce grizzly bear to WA North Cascades Ecosystem; Agency population goal = 200 (4/28/24; E. Bush/NBC News)



Rick's 2024 Reading & Streaming Tips!

True Believer

Jack Carr (2019)

Sacred Son

Jack Carr (2020)

Masters of the Air

Donald L. Miller (2006)

Apple TV+ Mini Series (2024)

The Fate of Empires

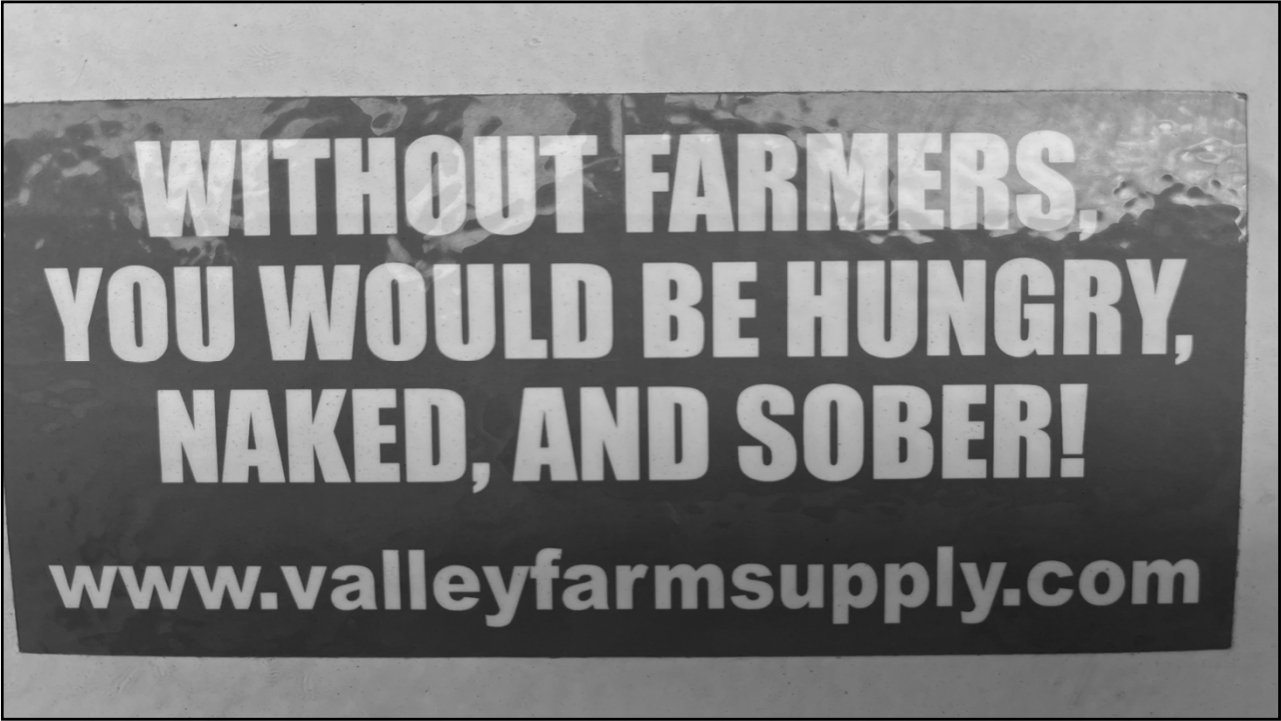
Sir John B. Glubb (1976)

<https://people.uncw.edu/kozloffm/glubb.pdf>

Live to 100: Secrets of the Blue Zones

Netflix Series (2024)





Washington, D.C. Year in Review

Report prepared by:

Rick Marks
Robertson, Monagle & Eastaugh

Email: Rem@hsgblaw-dc.com
Phone: (703) 963-1852

September 2024

