

National Marine Fisheries Service
Alaska Enforcement Division

ENFORCEMENT REPORT



January 01 – May 31, 2007

National Marine Fisheries Service
Office for Law Enforcement
P.O. Box 21767
Juneau, AK 99802-1767

This report can be viewed at:

http://www.nmfs.noaa.gov/ole/ak_enforce.html



**To report fisheries violations,
call our National Hotline at
1-800-853-1964**



INTRODUCTION:

Special Agent Albert Duncan has been selected as the Assistant Special Agent in Charge for S.E. Alaska. Al is from Sitka and after spending 4 years in the U.S. Marine Corps, he has worked for the NOAA Office of Law Enforcement as a uniformed officer and a Special Agent for 8 years. He will be supervising our offices in Sitka, Ketchikan and Petersburg. The geographic area he is responsible for is Dixon Entrance to Yakutat.

The Alaska Enforcement Division (AED) has opened 170 cases so far this year. This is approximately the same number as was opened by this time last year. The number of significant cases has increased this year. These are summarized in this report.

HIGHLIGHTS OF PRIORITY ISSUES:

OBSERVER-RELATED OFFENSES

On February 15, 2007 Enrique Deras was arrested by NOAA OLE agents for sexual harassment of an observer on February 1, 2007 aboard the F/V FRONTIER MARINER. On April 11, 2007, Mr. Deras was sentenced in federal court in Anchorage to one year of probation, with conditions to serve 60 days imprisonment and pay a fine of \$10,000 for his conviction of sexual harassment. The Court also ordered him to pay victim restitution totaling \$8,430, complete sexual harassment training approved by the probation department, and pay any associated costs for that counseling.

On April 30, 2007, Eduardo Morales was arrested by NOAA OLE agents for sexual harassment of an observer between April 21-27, 2007, on board the F/V UNIMAK. On May 7, 2007, Mr. Morales pled guilty to one count of sexual harassment and was sentenced in federal court in Anchorage to one year of probation, with conditions to serve 15 days imprisonment, pay a fine of \$1,000, complete at least three hours of sexual harassment counseling by a mental health professional approved by the probation department, and pay any associated costs for that counseling. It is important to note that once the vessel captain found out about the harassment, he confined Mr. Morales to his quarters, contacted his vessel company, who in turn contacted the observer contractor. The observer contractor then called our OLE personnel and reported the alleged crime.

AKD conducted an investigation into an observer company's failure to provide observers to requesting fishing vessels during the 3rd and 4th quarters of the 2005 fishing year. An investigative report has been forwarded to NOAA Office of General Counsel.

CRAB

There were 23 IFQ overages for the 2006/7 year, compared with 15 for the 2005/6 year. This is probably due to participants feeling more comfortable with the program and they may have pushed the limits because of their inability to carryover quota to the following year. Overages notwithstanding, the TAC was not exceeded in any fisheries.

AKD received notice from NOAA GC that the owner/operator of the F/V Four Daughters was issued a \$30,000 NOVA for violations committed during the Red King crab fishery in 2005. These violations included no vessel permit, no hired skipper permits, and crab overages.

STELLER SEA LION PROTECTION MEASURES

In January, 2007, ^{maybe revised} seven catcher processor vessels mistakenly harvested significant amounts (at least 200 mt) of Atka mackerel within a Steller sea lion area closed to directed fishing for Atka mackerel. This fleet self-reported these violations and investigations are continuing pending sales of the unlawful catch.

In addition to the seven vessels mentioned above, there have been an increased number of these "no directed fishing" violations. One catcher vessel made 6 consecutive fishing trips targeting Pacific cod with pot gear inside an area closed to directed fishing for Pacific cod. The fishing activity was being monitored using VMS, but at first it appeared to be crab fishing with pots. Later, when it was determined that it was using groundfish pots, the vessel operator was contacted on the grounds to prevent further violations.

As with the no directed fishing closed areas, AKD has seen no decline in the number of incursions within Stellar sealion rookery no transit areas. In some cases, vessels are making multiple incursions over a fishing trip. As with no directed fishing closed areas, AKD is working with the industry to continue to educate the fleet on these closed areas.

RECORD KEEPING AND REPORTING

March 21, 2007, Robert Becker was indicted by a federal grand jury in Anchorage on charges of violating federal fisheries laws. Between November, 2004, and January, 2005, Becker made three unlawful fishing trips to the Fairweather Grounds in the Gulf of Alaska and caught approximately 17,000 pounds of fish. During these three fishing trips, all of the East Yakutat Section was closed to directed fishing for Demersal Shelf Rockfish (DSR). Becker falsified his fish landing tickets and his DSR logbook to reflect that the fishing took place in the Northern Southeast Inside (NSEI) and Southern Southeast Inside (SSEI) state areas which were open to directed fishing for DSR. One consequence was that DSR was overharvested by approximately 25% in EYKT area. Another was that the state received reports that the 17,000 pounds of DSR was caught in NSEI and SSEI. The total wholesale value of Becker's unlawfully caught fish was nearly \$25,000. Trial is set for June 27, 2007.

Search warrants were executed at D Jay Enterprises in Bellingham, WA, and Baranof Frozen Foods in Sitka, AK on May 17, 2007. There are allegations of groundfish reporting violations as well as allegations of coho salmon from S.E. Alaska is being labeled and sold as king salmon. Estimates range from 500,000 - 700,000 pounds of salmon being mislabeled each year of the last two years. The Alaska State Troopers have assigned an investigator to assist in this investigation.

AKD is investigating allegations of institutional flow scale tampering aboard a C/P that participates in the AFA pollock fishery in Alaska and the hake fishery off of Washington and Oregon. Our agents received information from the observers aboard the vessel that several crew members came forward and reported the specifics of how the vessel's officers were tampering with the flow scale.

Three captains of the fishing vessel ALASKA JURIS, Alaska Juris Inc., and The Fishing Company of Alaska have been assessed a \$254,500 penalty and a thirty day permit sanction for violations of the Magnuson-Stevens Fishery Conservation and Management Act and for violations of the Marine Mammal Protection Act. NOAA is charging that for over four years,

from Oct. 2001 until Mar. 2004, the Fishing Company of Alaska through its agents committed the following types of violations; tampered with, destroyed or discarded observer's collected samples, equipment, records or personal effects; failed to provide observers a safe work area; failed to notify observers prior to bringing fish onboard to allow sampling of the catch; failed to provide reasonable assistance to observers collecting samples; interfered with or biased the sampling procedure employed by an observer; submitted inaccurate information on reports; failed to return prohibited species immediately to sea; failed to report incidental mortality and injury of marine mammals in the course of commercial fishing operations; and conducted fishing contrary to notification of inseason action, closure, or adjustment.

MARINE MAMMALS and ENDANGERED SPECIES

On January 2, 2007, the captain of the tour vessel *AWESOME ORCA* and Orca Enterprises, Inc., the vessel's owner, were issued a \$9,000 Notice of Violation and Assessment (NOVA) for an alleged violation of the Endangered Species Act. The NOVA charged the captain and vessel owner with harassment of a whale in August 2006, as the Juneau-based tour boat *AWESOME ORCA* was conducting a wildlife viewing cruise in Stephens Passage near North Pass in Southeast Alaska. During the tour, the captain maneuvered the vessel into the path of three oncoming whales, placing the vessel closer than 100 yards from the endangered humpback whales. Subsequently, one whale collided with the vessel causing one of the passengers to fall and suffer a head injury. In a compromise settlement Orca Enterprises, Inc. agreed to pay \$7,000 of the civil penalty with the remaining \$2,000 suspended for a period of three years on the condition of no similar violations during the suspension period.

ILLEGAL, UNREPORTED, UNREGULATED (IUU)

Illegal, unreported, or unregulated (IUU) vessel lists have been created to combat IUU fishing practices and attach certain penalties to vessels included on such lists; therefore, *it is advisable to consult these lists before making commercial arrangements with listed vessels*. They may be subject to such penalties as restricted port access or unloading prohibitions.

An increasing number of regional fisheries management organizations (RFMOs) have adopted procedures for listing vessels that have engaged in IUU fishing. Some of these lists, like ICCAT's, are intended to include only fishing vessels; others, like NAFO's, can include transport vessels as well.

NOAA Fisheries, on behalf of the U.S. Government, is designing a system that will implement our obligations to apply these RFMO decisions to vessels that have been included on IUU vessel lists. In the meantime, U.S. industry should be aware that the RFMOs identified below have already or are anticipated to be creating IUU vessel lists; some countries are already restricting port access, among other things, to listed vessels.

International Commission for the Conservation of Atlantic Tuna (ICCAT), Inter-American Tropical Tuna Commission (IATTC), and Indian Ocean Tuna Commission: (IOTC): www.tuna-org.org.

Northwest Atlantic Fisheries Organization (NAFO): www.nafo.int.

Northeast Atlantic Fisheries Commission (NEAFC): www.neafc.org.

Western and Central Pacific Fisheries Commission (WCPFC): www.wcpfc.org (WCPFC does not currently have an IUU list but has adopted a measure authorizing one.)

Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR): www.ccamlr.org.

COMMUNITY-ORIENTED POLICING AND PROBLEM SOLVING (COPPS)

AKD personnel staffed informational booths at Whalefest and Comfish, in Kodiak.

An AKD supervisor and an officer trainee spent 10 days aboard the USCGC ACUSHNET in the Bering Sea during February. The deployment afforded an opportunity to conduct underway training and fleet familiarization for the new officer, as well as to conduct joint operations with the USCG boarding parties. During boardings of CP vessels, the supervisor discussed with vessel masters wheelhouse perspectives of current and potential regulatory issues, such as potential trawl sweep modifications.

AKD staff conducted workshops in BBEDC communities of Dillingham, Togiak and Naknek/King Salmon, and the NSEDC community of Nome. These workshops targeted CDQ halibut Registered Buyers, processors, permit holders and CDQ managers, and focused on landing, recordkeeping & reporting and other regulatory requirements. These workshops continued AED's longstanding commitment to pre-season outreach and education as the primary means of promoting compliance with CDQ halibut fishing requirements.

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Prepared for June 2007 Council Meeting



REPORT To the North Pacific Fishery Management Council

- A) Cases referred to GCEL/AK from March 1 through May 31, 2007: 19
- B) Aggregate Penalties paid or promised from March 1 through May 31, 2007: \$52,000
- C) Aggregate Penalties (not including forfeitures) assessed from March 1 through May 31, 2007: \$120,800
- D) Notices of Violation and Assessment, Notices of Permit Sanction or Written Warnings issued from March 1 through May 31, 2007:
- 1) AK062010A and AK062010B (ARROW) – Permit holders and hired skipper charged with failing to submit a completed IFQ Landing Report within 6 hours after all IFQ halibut, CDQ halibut, or IFQ sablefish are landed and prior to shipment or transfer, and failing to remain at landing site until account is properly debited. Aggregate proposed penalties of \$15,000.
 - 2) AK060506 (MISS ROXANNE) – Charged vessel operator with failing to update the vessel's halibut logbook in a timely manner. \$500 proposed penalty.
 - 3) AK0601205 (LADY LEE) – Charged vessel operator with failure to have buoys properly marked, and for failing to remain at the landing site until the IFQ halibut account is properly debited. \$800 proposed penalty.
 - 4) AK052169 (VIXEN) – Charged with retrieved halibut fishing gear during a closed period when the vessel had halibut on board and failing to complete halibut logbook; \$2,500 proposed penalty.
 - 5) AK0602850 (Ledoux) – Charged for retaining Red King crab in excess of his available IFQ. \$1,000 proposed penalty.
 - 6) AK0603890 (SLOW POKE) – Charged fishing guide for assisting two clients in exceeding the daily halibut bag limit of 2 halibut. \$5,000 proposed penalty.
 - 7) AK0601881 (MISS B HAVEN) – Issued written warning to vessel operator for failing to properly mark the vessel's setline marker buoys and failing to have a seabird avoidance plan.

- 8) AK0601579 (Johnson) – Charged with engaging in subsistence halibut fishing without a valid permit, and having more than 30 hooks on board vessel while engaging in subsistence fishing for halibut. \$7,000 proposed penalty, plus permit sanction.
- 9) AK0602821 (Dochtermann) – Charged permit holder with retaining Eastern Bairdi crab in excess of the IFQ amount available under respondent's permits. \$1,000 proposed penalty.
- 10) AK0602281 (TONSINI) - Charged for falsely reporting area of IFQ harvest; \$27,000 value of seized catch and \$25,000 proposed penalty. (See settlement note below.)
- 11) AK043144 & AK043145 (F/V CHALLENGER) - Charged for submitting false information on IFQ report; \$25,000 proposed penalty.
- 12) AK0700402 (F/V CAPTAIN KIDD) - Charged for fishing in closed area; \$20,000 proposed penalty and forfeiture of \$7100 proceeds from seized catch.
- 13) AK0700334 - Charged for submitting inaccurate information on application for subsistence halibut permit; \$1000 proposed penalty.
- 14) AK0602930 & AK0602931 (F/V SEANNA) - Charged for retaining overage of bycatch species; \$2000 proposed penalty.
- 15) AK0700011 (F/V KARELIA) - Charged for failing to timely log/record IFQ halibut harvest; \$500 proposed penalty.
- 16) AK0602477 (F/V CONQUEST) - Charged with harvesting prohibited species; \$5,500 proposed penalty
- 17) AK054123 (F/V FRONTIER SPIRIT) - Charged with failing to carefully handle and release prohibited species (halibut); \$2,500 proposed penalty.
- 18) AK0700381 (F/V LAST ONE) – Charged with twice transiting through 3 mile no-transit Steller sea lion rookery buffer zone; \$5000 proposed penalty.
- 19) AK0602404 (F/V BIG BLUE) – Charged with retention of prohibited species; \$1500 proposed penalty.

E) Significant settlements

AK0602281 (TONSINI) - Charged for falsely reporting area of IFQ harvest; \$27,000 value of seized catch and \$25,000 proposed penalty. This case was settled for forfeiture of the seized catch, \$25,000 liability with \$10,000 suspended. Respondent also agreed to carry VMS for four years. This settlement is significant in that it is the first time in the IFQ program that carrying a VMS unit has been made part of the settlement.

AK043130 (Reutov) – Charged with failing to remain aboard the fishing vessel during the fishing trip in which said vessel was used to harvest IFQ halibut under her IFQ card; Respondent agreed to pay \$5,000, and an additional \$1,250 was suspended for a period of five years.