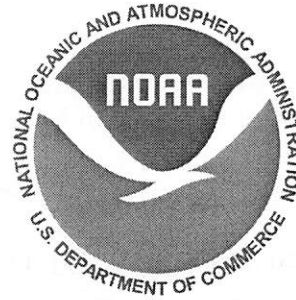


NOAA Office of the General Counsel for
Enforcement and Litigation, Alaska Region
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Prepared for December 2009 Council Meeting



REPORT To the North Pacific Fishery Management Council

- A) Cases referred to GCEL/AK by NMFS/OLE from October 1, 2008 through September 30, 2009: 81
- B) Aggregate Penalties (including forfeited amounts, but not including suspended amounts) paid or promised from October 1, 2008 through September 30, 2009: \$345,902
- C) Aggregate Penalties (including forfeitures) assessed from October 1, 2008 through September 30, 2009: \$4,879,733
- D) Description of Notices of Violation and Assessment, Notices of Permit Sanction or Written Warnings issued from October 1, 2008 through September 30, 2009: 67
- AK0700730, F/V KATIE ANN, alleged vessel engaged in directed fishing for Pacific cod in Harvest Limit Area (HLA) of Area 542 when Atka mackerel HLA directed fishery was open in that area, NOVA issued with \$115,219 assessed penalty
- AK041011, PETER PAN SEAFOODS; SEVEN SEAS FISHING, alleged exceedance of AFA crab cap for red king crab and opilio crab in 2004-2005, NOVA issued with \$4.4 million assessed penalty
- AK0801054, F/V NORCOASTER, alleged intentional submission of inaccurate information on official IFQ report, Notice of Permit Sanction issued that permanently revoked all BSAI sablefish IFQ of violator
- AK0701648, F/V ARICA, alleged fishing for flats after closure, NOVA issued with \$1000 assessed penalty
- AK0801984, F/V BARDY, alleged approach of sea lions so as to call level "B" harassment, Written Warning issued
- AK0704357, F/V NATURE, alleged intentional submission of false info on PNOL report, NOVA issued with \$5,000 assessed penalty
- AK0701012, F/V FRONTIER SPIRIT, alleged creation of an intimidating, hostile, offensive environment for observer, NOVA issued with \$50,000 assessed penalty

AK0804488, F/V MIDNITE SUN, alleged harvest of 377 lbs of shortraker & yelloweye rockfish in excess of MRA, NOVA issued with \$506.31 assessed penalty

AK0801886, Melton L. Griggers, NOVA issued with \$1,000 assessed penalty

AK0802395, F/V ZENITH, alleged lack of observer coverage, inadequate accommodations for observer and failure to notify observer prior to haul; NOVA issued with \$5,000 assessed penalty

AK0804837, F/V MYSTERY, alleged directed fishing for groundfish after closure, NOVA issued with \$33,159.87 assessed penalty

AK0804810, F/V ALASKAN DREAM, alleged exceedance of vessel cap for IFQ halibut, NOVA issued with \$27,650.42 assessed penalty

AK0802977, F/V VIXEN, alleged failure to submit DFL on quarterly basis, NOVA issued with \$1,000 assessed penalty

AK0804682, F/V FRONTIER MARINER, alleged failure to render observer reasonable assistance, NOVA issued with \$2,000 assessed penalty

AK0804488, RESURRECTION BAY SEAFOODS, alleged purchase and sale of 377 pounds of rockfish which had been harvested in excess of MRA, NOVA issued with \$506.31 assessed penalty

AK0802806, F/V KARIN LYNN, alleged failure to obtain observer coverage during one quarter as required and failed to operate VMS as required, NOVA issued with \$20,000 assessed penalty

AK0802223, NORQUEST SEAFOODS, INC, alleged purchase and sale of overage of rockfish, NOVA issued with \$1,290 assessed penalty

AK0803675, F/V BARBARA ANN, alleged commencement of an IFQ halibut landing without submitting a Prior Notice of Landing Report, NOVA issued with \$1,500 assessed penalty

AK0704133, ISLAND SEAFOODS, INC., alleged failure to report the landing of rockfish, NOVA issued with \$4,500 assessed penalty

AK0900060, F/V RAI DAWN, alleged fishing for Pcod within 10 nautical miles of Marmot Island, NOVA issued with \$1,000 assessed penalty

AK0900399, ST NICHOLAS, alleged failure to use careful halibut release method, NOVA issued with \$2,000 assessed penalty

AK0804653, F/V KODIAK ENTERPRISE, alleged failure to notify observer before haul back (2 counts and mixing hauls, NOVA issued with \$5,000 assessed penalty

AK0804680, LUCKY LADY, alleged retention of 36 undersized halibut and failing to complete IFQ logbook as required, NOVA issued with \$8,700.00 assessed penalty

AK0804794, F/V NORTHERN ENDURANCE, alleged exceedance of MRA for rockfish and P cod; NOVA issued with \$2,000 assessed penalty

AK0804427, F/V CURRENCY, alleged possession of filleted halibut prior to IFQ landing and possession of sablefish w/o sablefish IFQ, NOVA issued with \$3,000 assessed penalty.

AK0900426, F/V ALASKAN BEAUTY, alleged failure to retain all Pcod when IFQ fishing, NOVA issued with \$1,000 assessed penalty

AK0900450, F/V ROULETTE, alleged failure to maintain halibut log in a timely manner, NOVA issued with \$1,000 assessed penalty

AK0900467, F/V PEGGY ROSE, alleged failure to submit DFL on quarterly basis (4 counts) and failed to retain Pcod when IFQ fishing, NOVA issued with \$5000 assessed penalty

AK0801911, Lucas Winrod, alleged unlawful take of a harbor seal, NOVA issued with \$1,000 assessed penalty

AK0703416 and AK0703417, F/V MARQUAM, alleged possession of halibut fillets onboard vessel prior to IFQ landing, landed to other than Registered buyer, landed IFQ halibut before 0600 and retained sablefish w/o quota, NOVA issued with \$4,750 and \$5000 assessed penalty

AK0804550, COPPER RIVER FINE SEAFOODS, alleged receiving unlawfully harvested rockfish; NOVA issued with \$10,000 assessed penalty

AK0704462, F/V SEA MAC, alleged MRA overage of P cod, NOVA issued with \$5000 assessed penalty

AK0900434, F/V MARCY J, alleged MRA overage of Pcod, pollock, skates and rockfish (12 counts total) NOVA issued with \$16,000 assessed penalty

AK0800630, F/V ISBJORN, alleged unlawful harvest of halibut w/o IFQ permit in his name, NOVA issued with \$1,000 assessed penalty

AK0802475, F/V EDNA MAY, alleged no IFQ logbook on board during IFQ fishing, NOVA issued with \$500 assessed penalty

AK0803963, F/V FOREIGNER, alleged failure to operate VMS aboard vessel as required, NOVA issued with \$8,000 assessed penalty

AK0901762, F/V MISTY DAWN, alleged failure to have required boarding ladder, NOVA issued with \$1,500 assessed penalty

AK0902253, F/V OCEAN ALASKA, alleged failure to weigh each haul separately (mixing hauls), NOVA issued with \$1,000 assessed penalty

AK0704360, F/V SEA HUNTER, alleged IFQ sablefish overage, NOVA issued with \$500 assessed penalty

AK0901031, E.C. PHILLIPS & SON, INC., alleged failure to submit PTRs and submit check-in/check-out reports, NOVA issued with \$500 assessed penalty

AK0800065, F/V CLIPPER EPIC, alleged single failure to notify observer 15 prior to haul back; Written Warning Issued

AK0802850, F/V OUT THERE, alleged retention of IFQ halibut w/o IFQ permit, NOVA issued with \$3,500 assessed penalty

AK0703948, F/V WATERFALL III, alleged approach of sea lions so as to call level "B" harassment, Written Warning issued

AK0901349, F/V BIG BLUE, alleged delivery of northern affiliated IFQ to southern located processor (due to St. Paul being unexpectedly iced in), Written Warning Issued

AK0902684, F/V LETSUN, alleged possession of halibut fillets onboard prior to IFQ landing, NOVA issued with \$3,500 assessed penalty

AK0900204, F/V SIERRA MAR, alleged MRA Rockfish overage, NOVA issued with \$254.76 assessed penalty

AK0901469, F/V DARIA, alleged exceedance of daily halibut bag limit, NOVA issued with \$3,500 assessed penalty

AK0804631, F/V NATURE, alleged possession of halibut fillets onboard prior to IFQ landing, NOVA issued with \$3,500 assessed penalty

AK0903639, F/V PATTY J, alleged capture/harassment of a Stellar sea lion, NOVA issued with \$3,500 assessed penalty

AK0903921, F/V BLACK PEARL, alleged failure to have required boarding ladder, NOVA issued with \$1,500 assessed penalty

AK0902604, F/V HAPPY HOOKER, alleged harassment of a Humpback Whale, NOVA issued with \$5,000 assessed penalty

AK0801083, F/V MARATHON, alleged pollock trip limit overage in the amount of 3,903 pounds, NOVA issued with \$3,619 assessed penalty

AK0704554, F/V ARCTIC LADY, alleged retention of 406 pounds of IFQ crab in excess of the total amount of unharvested IFQ, NOVA issued with \$1,000 assessed penalty and forfeiture of \$1,808.73 proceeds from seized crab

AK0801979, E.C. Phillips and Son, alleged Registered Buyer failed to submit a completed IFQ Landing Report within 6 hours after offloading of IFQ sablefish, NOVA issued with \$5,000 assessed penalty

AK062007, Curtis Anderson, alleged to have submitted false information on an application for a Subsistence Halibut Registration Certificate, NOVA issued with \$1,000 assessed penalty

AK0700730, F/V KATIE ANN, alleged vessel engaged in directed fishing for Pacific cod in Harvest Limit Area (HLA) of Area 542 when Atka mackerel HLA directed fishery was open in that area, NOVA issued with \$115,219 assessed penalty

AK0800648, F/V CAPE ALAVA, alleged failure to return halibut to sea with a minimum of injury by using a crucifier to remove hooks and a gaff to move the fish, NOVA issued with \$1,000 assessed penalty

AK0701580, Ryan McCue, alleged to have used a float aircraft to approach within 200 yards of a sea lion haulout, written warning issued

AK0804831, Barton Chow, alleged possession of filleted halibut on board a 20' skiff, receiving 415 pounds of IFQ halibut and 173 pounds of IFQ sablefish without a registered buyer permit, and making false statements to an authorized officer concerning the harvesting of fish. Respondent Chow was detected at 3:00 a.m. receiving filleted halibut from a commercial fishing vessel. NOVA issued with penalty of \$31,755 and proposed forfeiture of Chow's 20' Bayrunner skiff (with outboard motor and other gear), 36 whole sablefish and 415 pounds of halibut fillets

AK0602022, F/V SEA BIRD II, alleged failure to submit IFQ Prior Notice of Landing before landing IFQ halibut, NOVA issued with \$1,000 assessed penalty

AK052105, Sea Level Seafoods, alleged failure to report landing of groundfish in the DCPL, NOVA issued with \$4,000 assessed penalty

AK0804589, Benjamin Michlig, alleged sexual harassment of a NMFS certified observer and creating a hostile working environment, NOVA and Notice of Permit Sanction issued with \$10,000 assessed penalty and revocation of Mr. Michlig's observer certification for 10 years

AK0704131, F/V DAWN, alleged to have exceeded MRA for aggregated rockfish bycatch by retaining 3,223 pounds of aggregated rockfish which was 213% in excess of the 1,513 pounds allowed, NOVA issued with \$5,538 assessed penalty

AK0900529, F/V ARCTIC WAVE, alleged retention of shark tail fin without shark carcass, NOVA issued with \$1,250 assessed penalty

AK0803191, David Csepp, alleged unlawful possession of marine mammal parts, NOVA issued with \$500 assessed penalty and forfeiture of seized items

AK0801454, F/V EPIC EXPLORER, alleged failure to discard 1,342 pounds of Pacific halibut at sea with a minimum of injury, and engaged in directed fishing for skates by exceeding the MRA for that species group by 10,062 pounds when the vessel's basis species allowed a MRA of 3,091, NOVA issued with \$12,805 assessed penalty

AK060002, Aleutian Pribilof Island Assoc. and Consortium for Risk Evaluation with Stakeholder Participation II, allegations included taking of a Steller sea lion without a permit and approach within 3 nautical miles of a rookery, NOVA/NOPS issued with \$18,000 penalty and 2-year research permit sanction against organizations and principal- and co-investigators

**NOAA Fisheries Office of Law Enforcement
Alaska Enforcement Division
Report to
The North Pacific Fishery Management Council**



December 2009

**NOAA Fisheries Office for Law Enforcement
Alaska Enforcement Division
P.O. Box 21767
Juneau, AK 99801**

**TO REPORT VIOLATIONS:
Call
1-800-853-1964**



OLE/Alaska Division Organization:

OLE/AKD is very pleased to announce that we have successfully recruited and hired several new personnel into both special agent and enforcement officer positions. Many of these positions had been vacant for quite some time, and these new personnel will increase our capacity for investigations, patrols, and outreach activities. All of these new personnel have prior experience in natural resources law enforcement, and many of them have worked in Alaska previously, which will help significantly in adapting to our work activities.

Highlights from Investigations and Patrols:

A hired master, vessel owners, and permit holders of the F/V TRIDENT have agreed to pay more than \$18,000 in penalties and \$241,000 in sanctions for falsely reporting areas fished by the vessel on five trips during 2006 and 2007.

NOAA General Counsel permanently sanctioned approximately 3,000 pounds of Bering Sea sablefish quota share held by Ryan Brummond of the F/V NORCOASTER. The sanction was the result of an OLE investigation that showed Brummond falsely reported the area of catch.

NOAA OLE/AKD deployed agents and officers to St. Paul to monitor the St. Mathews Blue King crab fishery. The St. Mathews Blue king crab fishery has been closed since 1998 to allow stocks to improve. The agents and officers boarded all of the harvesting vessels and monitored a significant portion of the offloads.

Highlights from Community Oriented Policing and Problem Solving:

Prevention: NOAA OLE has a well-developed and very successful observer harassment enforcement and prevention program. As part of our continuing prevention effort, NOAA OLE developed an Observer Harassment Warning Sign for posting aboard vessels to ensure widespread awareness of the observer harassment prohibitions. The warning sign was distributed to all permitted vessels and shoreside processors with observer requirements as part of the 2009 triennial Federal Fisheries permit mailing process. We received positive feedback about the signs from industry, observers, and the observer program. Agents and officers deployed across the state report seeing the signs on vessels and at processor locations. A printable copy of the sign can be found on the NOAA OLE website:
<http://www.nmfs.noaa.gov/ole/index.html>

Policing/Problem Solving: The number of illegal takes of Northern fur seals on St. Paul Island has increased in recent years, and we recognized that changing this unlawful behavior would require unique solutions to have meaningful impact in the context of the St. Paul community. Our enforcement officers, Protected Resources personnel, and St. Paul community leaders and Tribal Council members met early in the year to begin discussing approaches to stop the illegal fur seal takes. The Tribal Council agreed to develop harvest and seal protection ordinances and created an ad-hoc committee to accomplish this task. Enforcement officer Les Cockreham was invited to participate on the committee that included native hunters, Tribal Council members,

representatives from the St. Paul Ecology Conservation Office, and NMFS Protected Resources Division. Over the next few months, the committee met several times to arrive at agreement on a new section of Tribal ordinances consistent with 50 CFR 216. The new Tribal ordinances were introduced to the community in a public forum in April, 2009. The Tribal Council also voted to raise a reward for information on the illegal take of 11 fur seal pups from \$500 to \$3000.

In cooperation with St. Paul community leaders, OLE developed an extensive patrol and community education plan dubbed Operation Laqudaadan (La-koo-dah: meaning seal pup). Our personnel spent approximately 12 weeks patrolling during the closed seasons in support of this operation. A local fur seal harvester commented that our presence in St. Paul has had a positive impact on the community and fur seals.

Two of our enforcement officers received training on the Restorative Justice Model that is used successfully in many Native American communities. The Restorative Justice Model focuses on community customs and relationships, consensus of agreement, accountability for offender's actions, and a healing process for the victim. A talking circle is used to resolve violations and a sentencing circle is used to impose a community penalty or fine for the offender. The St. Paul community adopted this model for resolution of violations in their community. OLE personnel provided training and guidance to Ecology Conservation Office personnel on enforcement methods, and worked closely with the St. Paul Police to enhance fur seal enforcement efforts.

OLE and General Counsel agreed to defer sentencing in one of our recent cases to St. Paul's new Tribal Court. The subject of the case pled guilty in Tribal Court to the federal charges of trespassing on a closed fur seal rookery and the illegal take of a fur seal. The subject was sentenced to 120 hours of community service; required to obtain a chemical dependency treatment; must participate in the 2010 harvest to support the elders with seal meat; teach younger hunters traditional hunting methods to prevent struck and loss; report to the St Paul Tribal Law Enforcement Office before hunting; and make a public apology at the 2010 Aleut Community Meeting to the community of St Paul.

OLE is very pleased with the cooperation we achieved in working closely with the St. Paul community to address a common concern. While illegal fur seal takes are a continuing issue, we are working in partnership with St. Paul to prevent, investigate, and prosecute violations through a justice system that is a more effective solution for their community.

Highlights from Partnerships:

NOAA OLE personnel partnered with the Alaska Wildlife Troopers, the US Coast Guard, and the National Park Service in 4 day operation during August in the Icy Strait and Cross Sound area of northern southeast Alaska. The objective of the operation was to board and inspect every vessel encountered at sea and shoreside. The operation involved 16 enforcement officers, 5 patrol vessels, a fixed winged aircraft and a Coast Guard helicopter. The officers boarded and inspected approximately 112 vessels during the 4-day effort. A number of violations resulted from the inspections, but the observed compliance rate was high.

OLE partnered with the US Coast Guard for a similar effort in the Homer area. This operation focused on sport and halibut charter vessels as they returned from fishing. Twenty-nine vessels were boarded during the afternoon and evening hours in Deep Creek and Homer. Overall, compliance was very good, but there were halibut over limit violations.

Managers and supervisors of OLE and the Alaska Wildlife Troopers met in October to discuss opportunities to increase our cooperative efforts and patrol activities under our Cooperative Enforcement Agreement. A new format for our Joint Enforcement Agreement will provide greater flexibility to adjust operational objectives according to emerging issues than we have had in previous agreements.

Highlights from Outreach Activities:

OLE special agents and enforcement officers participate in a wide variety of outreach events throughout the year to support our education and prevention efforts. The following list is but a sample of the many events our personnel attend. In addition to large public events, they provide numerous smaller outreach and education programs for industry, community groups, and schools.

Anchors Aweigh Boat Show
Juneau Rotary Boat Show
Ketchikan Charter Fishing Association
Cook Inlet Beluga Whale Symposium
Annual skipper's meeting of the Best Use Coalition
Annual meeting of the Alaska Whitefish Trawler's Association
Great Alaska Sportman Show
Alaska Aviation and Trade Show
Whalefest – Sitka
Whalefest – Kodiak
Comfish
Friends of the Alaska Coastal Wildlife Refuge
Alaska Forum on the Environment
Salmon Camp – Kodiak
Alaska State Fair
Pacific Marine Expo
Alaska Federation of Natives
Southeast Alaska Whale Watch Tour Companies

WARNING

HARASSMENT OF AN OBSERVER WILL NOT BE TOLERATED.

VIOLATORS WILL BE PROSECUTED !

Violators are subject to Civil and/or Criminal Penalties up to \$130,000 and 6 months imprisonment under the Magnuson Act and \$20,000 and 1 year imprisonment under the Marine Mammal Protection Act .

It is unlawful to:

- (1) Intimidate, resist, oppose, impede, sexually harass, bribe, or interfere with an observer.
- (2) Interfere with or bias the sampling procedure employed by an observer.
- (3) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photos, papers, or personal effects .
- (4) Prohibit or bar by command, impediment, threat, coercion, or by refusal of reasonable assistance, an observer from performing duties.
- (5) Harass an observer by conduct that has sexual connotations, or otherwise creates an intimidating, hostile, or offensive environment.
- (6) Require, pressure, coerce, or threaten an observer to perform crew member duties.



To report a
violation contact the
NOAA Enforcement Hot Line
800-853-1964

