

A Washington, D.C. Year in Review

Rick Marks
Robertson, Monagle & Eastaugh
PSMFC 2017



A Washington DC Year in Review

Rick Marks, PSMFC 2017

- Magnuson-Stevens Act, D-Crab survives the *Curse of the Red Snapper!*
- EPA NPDES/"VIDA" & USCG Issues
- Executive Orders
- EO's & Natural Resource Regulations
- Sanctuaries/Monuments
- National Ocean Policy
- Climate Change
- Protected, Endangered Threatened Species
- Shark! *We're gonna need a bigger boat!*
- PSMFC "Grab Bag"
- *Summer Reading Tips!*
- *...and You Heard it Here!*

MSFCMA Reauthorization

House & Senate Activity

Slide #1

- AK Sen. Dan Sullivan chair of Senate Commerce Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard (1/10/17); Sen Maria Cantwell (D-WA) remains on the Subcmte
- AK Rep. Don Young's H.R. 200; "*Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act*" (1/3/17; a.k.a. H.R. 1335, passed the House in 2015)
- *Curse of the Gulf Red Snapper continues...* impacts D-Crab legislation & MSA reform; H.R. 2023/S.1520; plus bicameral Gulf Red Snapper Act of 2017 (8/1/17)
- D-Crab fix finally slips through! H.R. 374 passed House on 1/30/17; the "blind" hold on S.61 was released on 8/3/17, paving the way for approval! **[PSMFC ISSUE 18]**
- House Oversight Interior Subcmte hearing: "*Examining the Management of Red Snapper in the Gulf of Mexico*"; (5/2/17)
- Senate FY18 CJS approps bill contains several red snapper provisions

MSFCMA Reauthorization

House & Senate Activity

Slide #2

- DOC Sec. Ross ER extends federal Gulf sport red snapper season from 3 days to 39; expecting ~ 7.0M lb. overage & 6-yr rebuilding delay; sued by NGOs (7/17/17)
- House Nat Res Subcmte MSA oversight hearing: *"Exploring the Successes and Challenges of the Magnuson-Stevens Act"*; (7/19); Panel: Commercial, Sport, State of FL
- Senate Commerce Subcmte oversight hearing: *"Reauthorization of the MSFCMA: NOAA & RFMC Perspectives"*; (8/1); Alaska Field Hearing, (8/23); Panel: State of AK, NMFS, AK Stakeholders
- FL Fisheries Improvement Act of 2017; (Sen. Rubio; on 8/3/17)
- **Outlook** for the 115th Congress – H.R. 200 (w/revisions) out of Committee/House; Senate draft legislation, field & legislative hearings, bill out of Cmte...after that, all bets are off!

Magnuson-Stevens Act (MSFCMA)

- NOAA revises NSG's 1-3-7 (10/16; 81 FR 71858)
- NOAA revises National Bycatch Reduction Strategy (12/16); regional draft plans due in 2017
- NOAA issues final guidance on the SBRM (82 FR 6317), RFMC's have 5-yrs to ensure FMP consistency (i.e. by 2/24/21)
- NOAA issues Final EBFM implementation "Road Map"; (11/17/16); See <http://www.nmfs.noaa.gov/op/pds/index.html>
- NOAA developing *Best Scientific Information Available* "white paper"; RFMC comment period ended 6/17
- NOAA/ASMFC saltwater sport fishing summit March '18

EPA NPDES "VIDA" /USCG Update

- Moratorium on EPA NPDES permits sunsets 12/19/2017 for commercial fishing & charter boats regardless of size, and commercial-use vessels <79-ft **[PSMFC ISSUE #3]**
- Senate Commerce Cmte approves USCG reauth (S.1129; 5/17), attaches S.168 "VIDA"; opposed by AFS; AFWA; CRITFC; WA/OR/CA/NY/MI/ME/RI/HI/WI/AZ/MN; 100+ NGOs; Senate unable to move S.1129...amdmt to FY18 NDAA; House approves H.R.1154 in FY18 DHS authorization (7/20)...stay tuned for fall action!
- Also included in S.1129, mandatory ASCP delayed for 3 years with a requirement for USCG to engage w/industry **[PSMFC ISSUE #11]**; expanded stability exemption for newly-built commercial fishing vessels up to 180 ft. (up from 79ft); USCG requirement for additional public outreach; and S.1057, a Harmful Algal Bloom bill
- USCG/NOAA clarifying 1980 MOA re: use of fishing vessels as research platforms; USCG expects no inspection procedural changes; revised MOA to be signed in 2017 **[PSMFC ISSUE #6]**

Executive Orders & Natural Resource Policy

- Memorandum on Regulatory Freeze Pending Review (1/20/17)
- 13771 Reducing Regulations and Controlling Regulatory Costs (a.k.a. the "2 for 1 Rule"; repeal 2 regulations for each new 1)
- 13777 Enforcing the Regulatory Reform Agenda (2/24)
- 13783 Promoting Energy Independence & Economic Growth (2/28)
- Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the Waters of the U.S. Rule ("WOTUS") (2/28)
- Comprehensive Plan for Reorganizing the Executive Branch (3/13)
- 13792 Review of Designations Under the Antiquities Act (4/26)
- Implementing an America-First Offshore Energy Strategy (4/28)
- Congressional Review Act of 1996 (CRA applies to all rules finalized w/in past 60-days)

A Few Notable Impacts...

- EPA "WOTUS" Rule -- EPA/USACE to review, rescind or revise 2015 Rule; Agencies initiate 3/6/17 (82 FR 12532)
- DOI issues first ever formal public comment for Antiquities Act designations/expansions (82 FR 20429); for 27 monuments since 1/1/96, covering >100,000 acres; "Bears Ears"; incl. 5 marine monuments (Marianas, NE Canyons, Pacific Remote, HI Islands, Rose Atoll)
- NOAA to examine regulations & process under Regulatory Flexibility Act & EO's (2 actions: 82 FR 31576 & 82 FR 31576)
- USCG initiates actions (7/11; 82 FR 31928); public webinar (7/27)
- EPA initiates actions (4/13)
- Casualties of the CRA – Stream Protection Rule (2/16); DOI/BLM rules under Federal Land Policy & Mgmt Act of 1976 (2/27); DOI subsistence rule on Nat'l Wildlife Refuges in Alaska (4/3)

Marine Sanctuaries & Monuments

Slide #1

- H.R. 200 (new MSA bill; 1/3/17) contains provision specifying MSA as controlling law in cases of conflict w/ NMSA, ESA, Antiquities Act
- S.33 to reform national monument process (1/5/17); H.R. 222 to reform sanctuary nomination process (1/3/17)
- Pres. Obama expands CA Coastal Nat'l Monument +8,000 acres (1/12/17)
- RFMC CCC sends letter to Pres. Trump raising concerns over designation/expansion of monuments; urges support of MSA process (3/1/17) **[PSMFC ISSUE 10]**
- 5 East Coast commercial fishing organizations challenge Pres. Obama's NE monument designation (3/7/17)
- House Nat Res Subcmte oversight hearing: *"Examining Creation and Management of Marine Monuments & Sanctuaries"* (3/15/17)

Marine Sanctuaries & Monuments

Slide #2

- House Nat Res Fed Lands Subcmte hearing: *"Oversight on the Consequences of Executive Branch Overreach of the Antiquities Act"* (5/2/17)
- DOI/DOC announce 1st ever public comment on 27 prior monument designations >100,000 acres since 1/1/96 (5/8/17); Report due in 120 days
- 9 Members of Congress request new Administration revise NE Canyon Monument to allow fishing via MSA process (6/13/17)
- Senate Commerce Subcmte oversight hearing *"Marine Sanctuaries: Fisheries, Access, the Environment, and Maritime Heritage"* (6/27/17)
- Australia to expand fishing into 80% of the world's largest marine-reserves network to promote the regional economy (7/21/17)

National Ocean Policy

- NOC GCC provides NOP recommendations to Trump Administration (11/4/16)
- NOC approves NE & MID RPB Ocean Plans, 1st in the Country (12/16)
- Joint Ocean Commission Report: *Supporting Regional Economies and Ecosystems* (3/15/17)
- 80+ industry stakeholder groups send letters to White House & House/Senate Appropriators requesting full repeal of the NOP (6/19/17)
- West Coast RPB: annual meeting 10/16; webinar 4/28/17; See <http://www.westcoastmarineplanning.org/webinar/>
- House maintains ongoing NOP funding prohibition in FY18 E&W approps bill (7/26/17)

Climate Change

- U.S. Appeals Court reverses lower Court decision (originally favoring State of AK): NMFS *did* act reasonably when using climate change projections extending from 2050 to 2100 to justify ESA listing of Pacific bearded seal (10/16)
- NMFS' WA Leavenworth Hatchery BiOp ruled arbitrary & capricious for failure to consider effects of climate change (12/16)
- President Obama issues Northern Bering Sea Climate Resilience EO (12/9/16); unclear if this complicates NOAA trawl surveys
- NOAA to increase amount of climate change data in stock assessments; regional climate action plans in various stages of completion (from NOAA Science Report, Spring 2017 CCC meeting)
- Trump Admin announces intent to withdraw from Paris Agreement (6/1/17); earliest formal withdraw date 11/4/20
- UN to begin high seas treaty talks on fish protection: NYT (8/2/17)



Protected, Endangered, Threatened Species

Slide #1

- H.R. 2083: WA Rep. Herrera Beutler/OR Rep. Schrader's "*Endangered Salmon & Fisheries Predation Prevention Act*"; House Nat Res Subcmte hearing 7/8/17; approved 7/26; ID Sen. Risch's S.1702 (8/2/17)
- Final Report and Recommendations of the Bonneville Pinniped-Fishery Interaction Task Force; (4/21/17) See <http://www.westcoast.fisheries.noaa.gov/publications/protected-species/marine-mammals/pinnipeds/sea-lion-removals/2017/bonneville-pfitf-march-2017-report-final.pdf>
- NOAA/NMFS request comments on ESA Listing and Recovery Priority Guidelines (5/31/17); See 82 FR 24944; comments due 8/28/17
- House Nat Res hearing on 5 ESA reform bills (7/19/17): HR 424; 717; 1274; 2603; 3131 -- citizen lawsuits, consideration of economic impacts of ESA listings, data sharing with states, new rules on gray wolves, to a prohibition on listing nonnative species
- Senate EPW hearing (5/10/17); staff beginning ESA reform agenda

Protected, Endangered, Threatened Species Slide #2

- NOAA/NMFS withdraw 10/13/16 PR to establish "hard caps" for the CA/OR large mesh drift gillnet fishery interactions with certain protected species
- NOAA/NMFS request information on foreign fishing operations that export to the US to determine incidental and intentional mortality & injury of marine mammals to establish U.S. certification program (82 FR 2961, based on 81 FR 54390)
- ESA Recovery Plan available for Cook Inlet Belugas (82 FR 1325)
- NOAA/NMFS BiOp on Mitchell Act Hatchery programs (2/1/17)
- NOAA/NMFS finalize status of 14 Humpback whale population segments (81 FR 93639)
- USFWS Polar Bear Conservation Management Plan (82 FR 2392)

Protected, Endangered, Threatened Species

Slide #3

- NOAA/PSMFC meeting - West Coast whale entanglements (Portland, OR; 3/17); work groups continue **[PSMFC ISSUE #2]**
- NOAA releases 2016 West Coast Marine Mammal Entanglement Summary (5/17)
- June 28th CBD files 60-day NOI to sue CA (Sec. 7 ESA) unless immediate action is taken; deadline 9/26/17
- USFWS publishes a draft revised SAR for the CA southern sea otter (81 FR 87951); Nmin=3,054; PBR=9
- Study says predators may play major role in chinook salmon declines; C. Dunagan, Puget Sound Institute (2/1/17)
- NOAA AK Science Ctr launches "*Steller Watch*" using citizen science to augment SSL counting process (3/15/17); Western SSL DPS +2%, mixed news across the Aleutians
- No. Pac Right Whale 5-yr review (82 FR 29842)

Shark!

- NOAA's 2015 Coastal Shark Survey: highest catch in 29-yr history
- "Cape Cod Warned of Shark Boom: Rescuers Now Train for Attacks": M. Ottolini, Boston Herald (6/27/17); 68 great whites (2014), 147 (2016); +++2017!
- Endangered right whale calf mortalities "twice as high as documented mortalities & disappearance from sighting record": Taylor et al. 2013 J. Mar. Mam. Sci
- "Increase in the # of sharks is a visual representation of the success of the MMPA"; "Shark sightings on the rise, what you need to know"; Fox News, 6/13/17; L. Goldstein
- In 2016, 40% of the world's unprovoked shark attacks in U.S. waters: Brevard Times (4/15/17)
- S.793/H.R.1456: *The Shark Fin Trade Elimination Act of 2017* to ban use of fins; experts divided on benefits: U. Chrobak, Mongay (7/21/17)
- Senate Commerce Cmte approves S.793 (5/18/17); H.R. 1456 has 139 cosponsors
- "JAWS" Act (H.R. 3377; 7/26/17)
- Help save the sharks at: <https://www.gofundme.com/sharks-need-our-help>
- ***SHARKNADO #5 : GLOBAL SWARMING !***

OCEARCH Satellite track of "Lydia", 1st Great White tagged by MASS DMF on 3/2/13: PRI, A. Crossan (12/9/14)



OCEARCH tracking Lydia since she was tagged on March 2, 2013.

PSMFC "Grab Bag" #1

- Global analysis of depletion & recovery of seabed biota after bottom trawling disturbance: Hiddink, JG, et al. 7/11/17; www.pnas.org
- CA Ocean Science Trust publishes *Ready California Fisheries For Climate Change* at: <http://www.oceansciencetrust.org/projects/climate-change-and-california-fisheries/>
- 14 WA/OR/ID Members of Congress send letter to DOI Secretary Zinke expressing concerns about spread of invasive mussels into Montana (6/21/17)
- NOAA/NMFS revise the Capitol Construction Fund (CCF) Tax Regulations (82 FR 24561)
- Nat'l Fish Habitat Conservation Act introduced (S.1436)
- CA Reps Speier/Huffman introduce H.R. 2344, "The Crab Emergency Disaster Act of 2017 (5/3/17); CA sardine disaster request to Gov. Brown (7/18)
- IUU Seafood Import Monitoring (SIMP) Final Rule; 81 FR 88975; 9 major commercial fishing industry stakeholders sue DOC (1/6/17)
- NOAA issues final revisions for NEPA implementation 82 FR 4306; effective 1/13/17
- Senate Commerce Cmte approves S.396; "*The Billfish Conservation Act of 2012*", preventing export of HI longline caught billfish (5/17/17)
- Young Fishermen's Act (S.1323/H.R. 2079) to encourage retention of fishermen ; Honest Fishermen Act (H.R. 3108) to address seafood fraud

PSMFC "Grab Bag" #2

- Pres signs *"Ensuring Access to Fisheries Act"* (12/16) implementing High Seas treaties ratified in 2014 by the Senate (No. Pac, So. Pac, No. Atl)
- *"West Coast Ocean Protection Expansion Act"* (House/Senate) to permanently prohibit oil & gas leases off WA/OR/CA (1/10/17)
- AIS bills; "Federal Land Invasive Species Control, Prevention and Management Act (H.R. 1330 & S.509; 3/17)
- FDA/EPA issue updated guidance re: "What You Need to Know About Mercury in Fish and Shellfish" (82 FR 6571); FDA petitioned (6/22/17)
- 1st offshore shellfish ranch off Long Beach, CA (1st production, 7/17)
- Secretary declares 9 fishery disasters (1/18/17); no federal \$ provided to date
- **[PSMFC ISSUE #8]** West Coast Groundfish buyback loan "REFI" remains stuck since 2015 with a \$10.3M OMB bill, future uncertain
- Rep. Don Young bill on Maritime lien reforms (1/3/17)
- 15,000 H-2B work visas added by DHS (7/17)
- NMFS withdraws PR to revise data confidentiality requirements (1/13/17)
- Different S-K reform bills (H.R. 214/S.1322); Commerce Cmte approved S.1322 (8/2/17)

Rick's Summer Reading Tips!

The Boys in the Boat

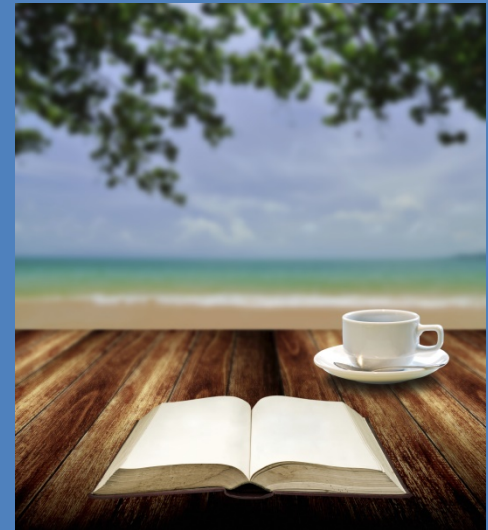
Daniel James Brown (2013)

Valiant Ambition

Nathaniel Philbrick (2016)

Summit

Harry Farthing (2016)



AND YOU HEARD IT HERE...

- Kangaroo farts not as environmentally friendly as previously thought: WAPO (1/3/17)
- Deadly cat poop causes rift among animal defenders in Hawaii: AP (1/17/16)
- Fishing Robot automatically detects & electrocutes lion fish, then brings harvest to surface: SFN.com (4/12/17)
- Beer, the pain reliever: Univ of Greenwich, Eng. (5/8/17)
- Bipartisan Group Launches Congressional **Cannabis** Caucus: DY Press Release; M. Shuckerow (2/16/17)
- Flying Turkeys Cause Power Outages in East Medford: Medford Mall Tribune (12/9/16)
- U.S. Navy developing hagfish slime defenses: MarEx 16
- Hagfish spill closes Hwy 1 in OR; MarEx (7/14/17)
- Scientists are trying to save the climate from toxic cow burps: WAPO (12/23/16)
- Animal rights activists steal fish from man at St. Petersburg Park, FL: IONTB (7/11/17)
- Goat Yoga: Activity combines relaxing pastime with small animals: Tampa Bay Times (6/5/17)

