

September 1, 2010

NOAA Office of the General Counsel for Enforcement and Litigation
Enforcement Actions
March 18, 2010, through July 31, 2010¹

NOVA and/or NOPS and/or Written Warning Issued and Served²

During this time period, NOAA charged 24 civil administrative cases as follows:³

1. SE0903065; F/V CHACKBAY LADY - Owner/operator was charged in two counts under the Endangered Species Act with failing to have an installed turtle excluder device (TED) in nets rigged for fishing. A \$17,000 NOVA was issued.
2. SE0903433 - Owner/operator was charged under the National Marine Sanctuaries Act with injuring seagrass during a vessel grounding in the Florida Keys National Marine Sanctuary. A \$5,000 NOVA was issued.
3. SE0903867; F/V MR. WILLIAMS - Owner/operator was charged in two counts under the Endangered Species Act with failing to have an installed TED in nets rigged for fishing. A \$17,000 NOVA was issued.
4. SE0904321 - Owner/operator was charged under the National Marine Sanctuaries Act with injuring seagrass during a vessel grounding in the Florida Keys National Marine Sanctuary. A \$5,000 NOVA was issued.
5. SE0904403; F/V LERIN LANE - Owner/operator was charged in two counts under the Endangered Species Act with failing to have an installed TED in nets rigged for fishing. A \$17,000 NOVA was issued.
6. SE0904425; F/V THE RIGHT STUFF - Owner/operator was charged in three counts under the Magnuson-Stevens Act with failing to comply with Gulf reef fish commercial vessels sea turtle conservation measures, with possessing undersized red grouper, and

¹ The starting date for this report is the date of NOAA's response to the Inspector General's January 21 report. Our next report will be posted February 1, 2011, reporting on civil administrative cases charged and settled for the period August 1, 2010, through December 31, 2010.

² NOVA stands for Notice of Violation and Assessment and NOPS stands for Notice of Permit Sanction. NOVAs, NOPS and written warnings contain the agency's allegations of violations by the respondent(s). In response to receiving a NOVA, NOPS or written warning, a respondent may challenge those allegations through means set forth in NOAA's civil procedure regulations found at 15 C.F.R. Part 904.

³ The cases are listed by file number, with SE representing Southeast cases, NE representing Northeast cases, SW representing Southwest cases, NW representing Northwest cases, AK representing Alaska cases, and PI representing Pacific Island cases.

with using Gulf reef fish as bait and/or failing to maintain Gulf reef fish intact through offloading ashore. A \$1,650 NOVA was issued.

7. SE1000062; F/V FANTA SEAS - Owner and operator were charged in two counts under the Magnuson-Stevens Act with failing to maintain red grouper intact through offloading ashore and with making a false statement. Owner and operator were also charged under the Endangered Species Act with having a vessel not in compliance because its gangions and hooks were stowed below deck. A \$34,000 NOVA and a 60 day NOPS were issued. The owner and operator were also charged under the Magnuson-Stevens Act with failing to maintain vessel log books. A written warning was issued.
8. SE1000181; F/V MISS CAPE CANAVERAL - Owner and operator were charged in two counts under the Magnuson-Stevens Act with possessing vermillion snapper during the South Atlantic seasonal closure for that recreational fishery and with retaining on board a vessel a sailfish less than the minimum size. A \$2,500 NOVA was issued.
9. SE1000188; F/V FLORIDA QUEEN - Owner and operator were charged under the Magnuson-Stevens Act with failing to comply with Gulf reef fish commercial vessels sea turtle conservation measures. A \$1,500 NOVA was issued.
10. SE1000523 - Owner/operator was charged under the National Marine Sanctuaries Act with injuring seagrass during a vessel grounding in the Florida Keys National Marine Sanctuary. A \$5,000 NOVA was issued.
11. SE1000558 - Owners and operators were charged under the Magnuson-Stevens Act with fishing without valid shark vessel limited access permit. A \$30,000 NOVA and a 45 day NOPS were issued.
12. SE1001024; F/V SANTA LUCIA - Owner and operator were charged under the National Marine Sanctuaries Act with injuring seagrass during a vessel grounding in the Florida Keys National Marine Sanctuary. A written warning was issued.
13. SE1001188 - Owner/operator was charged under the National Marine Sanctuaries Act with injuring coral during a vessel grounding in the Florida Keys National Marine Sanctuary. A \$6,000 NOVA was issued.
14. SE1001974; F/V CAPTAIN T - Owner/operator was charged under the Magnuson-Stevens Act with fishing in a portion of the Gulf of Mexico Exclusive Economic Zone (EEZ) closed due to the BP oil spill. A \$15,000 NOVA was issued.
15. SW0801471 – Green Pastures Valley, LLC, was charged in seven counts under the Endangered Species Act with lethally taking endangered Central California Coast coho salmon. A \$115,500 NOVA was issued.

16. AK1000471; F/V ALASKA DAWN - Owner and operator were charged in twenty-eight counts under the Magnuson-Stevens Act with unlawful directed fishing harvests and deliveries of pollock and/or Pacific Cod. A \$925,000 NOVA and a 210 day NOPS were issued.
17. PI0904339; F/V AMERICAN ENTERPRISE - Owner, operator, and fishing master were charged in two counts under the Marine Mammal Protection Act with taking whales upon the high seas. They were also charged in twelve counts under the Western and Central Pacific Fisheries Convention Implementation Act with setting on fish aggregating devices (FADs) and with deploying FADs during a 2009 FAD closure. A \$1,702,000 NOVA was issued.
18. PI1000544; F/V MAJESTIC BLUE - Owner, operator, and fishing master were charged in two counts under the Marine Mammal Protection Act with taking whales upon the high seas. A \$22,000 NOVA was issued.
19. PI1000828; FF/V ALBACORA UNO - Owner was charged in sixty-seven counts under the Magnuson-Stevens Act with fishing, by deploying FADs, inside the U.S. EEZ without a valid permit. A \$7,437,000 NOVA was issued. [See Settlement Agreements Executed, Item 9, below, for resolution of this matter.]
20. PI1001162 - Individual was charged under the Endangered Species Act with approaching within 100 yards of an endangered Humpback whale. A \$500 NOVA was issued.
21. PI1001427; F/V DOUBLE D - Owner and operator were charged in three counts under the Magnuson-Stevens Act with fishing without a valid Hawaii longline limited entry permit. A \$4,500 NOVA was issued.
22. PI1001437; F/V JAXON T - Owner and operator were charged in two counts under the Magnuson-Stevens Act with fishing without a valid Hawaii longline limited entry permit. A \$3,000 NOVA was issued.
23. PI1001633; F/V KAIMI - Owner and operator were charged under the Magnuson-Stevens Act with fishing without a valid Hawaii longline limited entry permit. A \$1,500 NOVA was issued.
24. PI1001697; F/V AO SHIBI GO - Owner and operator were charged under the Magnuson-Stevens Act with fishing without a valid Hawaii longline limited entry permit. A \$1,500 NOVA was issued.

Settlement Agreements Executed

During this time period, NOAA settled 9 civil administrative cases as follows:

1. NE0802730; F/V NAUTILUS - Magnuson-Stevens Act \$10,000 NOVA for Nantucket Lightship Closed Area Essential Fish Habitat violations, settled for \$3,500.
2. SE0901663; F/V MISS T - Magnuson-Stevens Act \$10,000 NOVA and 60 day NOPS for Gulf reef fish violations, settled for \$3,000 and 30 day permit sanction.
3. SE0902274; THAT'S RIGHT - National Marine Sanctuaries Act \$17,000 NOVA for anchoring and fishing in the Tortugas Ecological Reserve violations, settled for \$12,000.
4. SW0902995; F/V MALESA - Magnuson-Stevens Act \$5,000 NOVA for observer harassment violations, settled for \$5,000, with \$1,000 of it suspended for 5 years.
5. AK0902604; F/V HAPPY HOOKER - Endangered Species Act/Marine Mammal Protection Act \$5,000 NOVA for approaching within 100 yards of endangered Humpback whale violation, settled for \$5,000, with \$4,000 of it suspended for 5 years.
6. AK1000090; F/V MIDNITE SUN - Magnuson-Stevens Act \$5,000 NOVA for Pacific cod violations, settled for \$5,000, with \$1,000 of it suspended for 5 years.
7. PI0801063 - Endangered Species Act \$500 NOVA for approaching within 100 yards of an endangered Humpback whale violation, settled for \$250.
8. PI0901775; F/V MISS JANE - Magnuson-Stevens Act \$3,000 NOVA for High Seas Permit and limited entry longline permit violations, settled for \$1,500.
9. PI1000828; FF/V ALBACORA UNO - Magnuson-Stevens Act \$7,437,000 NOVA for fish aggregating devices violations, settled for \$5,000,000, with \$1,000,000 of it suspended for 3 years. [See Charged Matters, Item 19, above, for initial charging information.]