An Overview of the National Sea Grant Law Center

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Sea Grant 101

- **Mission** – “Enhance the practical use and conservation of coastal, marine, and Great Lakes resources to create a sustainable economy and environment.”
  - Program Authorized by Public Law 89-454, Title II, § 201 (June 17, 1966)).

- National Sea Grant College Program is a federal-university partnership.
  - 30 federally-funded, university-based programs.

- Each program conducts integrated research, education, and outreach (communication and extension) guided by national priorities and local needs.
In 2001, the National Sea Grant Office issued an RFP calling for “the creation of a law center to coordinate and enhance Sea Grant’s activities in legal scholarship and outreach related to coastal and ocean law issues.”

- At the time, three Sea Grant Programs (Louisiana, North Carolina, and Mississippi-Alabama) had state legal programs.
- University of Mississippi hosts the National Sea Grant Law Center.
Major Responsibilities

- Integrate the efforts of ocean and coastal law researchers and users in the Sea Grant network;
- Conduct research on current national ocean and coastal issues;
- Provide outreach and advisory services to the Sea Grant Network and NOAA;
- Disseminate information and analysis; and
- Serve as focal point for Sea Grant’s law-related issues.
Funding Sources

- Sea Grant Law Center receives $150,000 annually ($100,000 federal funding, $50,000 institutional match).

- Law Center is operated in conjunction with Mississippi-Alabama Sea Grant Legal Program ($100,000 federal, $50,000 match).
  - Legal Program funds portions of the salaries of the Director, webmaster, and law students.

- Small federal grants provide some additional funds for discrete projects.
**Funding Allocation**

- **Personnel**
  - Director - ~.375 FTE
  - Staff Attorney - 1 FTE
  - Web Designer - .5 FTE
Guiding Principles

- Provide neutral, non-biased, legal advice.
- Design research projects around the needs of Sea Grant programs, especially extension agents and their constituents (bottom-up).
- Incorporate all three Sea Grant prongs - research, education, and outreach – to improve understanding of ocean and coastal legal issues.
Law Center Components

- Research
- Advisory Service

- Outreach
- Newsletters

- Education
- Research Associate Program
Research

- Center attorneys conduct research on a variety of developing ocean and coastal policy issues including aquaculture, public access, and invasive species.

- Research findings are frequently published as scholarly articles in legal journals.
Advisory Service

- Research questions are often an outgrowth of the Law Center’s Advisory Service.
  - Legal research service provided free of charge to the Sea Grant College Program and its constituents.
- Law Center attorneys are prohibited from providing actual legal advice or becoming involved in litigation.
  - However, we can give our constituents the information they need to understand the law.
Advisory Request Process

1. Constituent (management agency, extension agent, private citizen) contacts Law Center.

2. Law Center attorneys work with constituent to identify discrete legal question.

3. Research conducted by attorney and law students.

4. Final product prepared – memorandum of law, joint publication with constituent, etc.

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Some Liability Issues for Massachusetts Shellfish Farmers

**Background**

Shellfish aquaculture and shellfish farming are regulated by Massachusetts General Laws (Chapter 138, Section 60). The Massachusetts Marine Extension Bulletin provides information on the laws and regulations governing shellfish farming in Massachusetts.

**Some Liability Issues**

- **Trespass:** It is illegal to enter a shellfish farm without permission. Trespassers can be subject to criminal charges.
- **Pollution:** Discharging pollutants into shellfish-growing areas can cause harm to shellfish populations.
- **Harvesting:** Harvesting shellfish from a closed area without proper permits can result in fines and legal action.
- **Fishing:** Fishing in a closed area can also result in legal consequences.

**Trespassers**

- Trespassers can be subject to criminal charges and fines.
- Legal action includes civil penalties and injunctive relief.

**Pollution**

- Pollutants can harm shellfish populations, leading to economic losses for farmers.
- penalties and injunctive relief.

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Woods Hole Oceanographic Institution Sea Grant Program
Cape Cod Cooperative Extension

Some Liability Issues for Massachusetts Shellfish Farmers

As Massachusetts' shellfish aquaculture industry continues to grow, issues of liability and regulations arise. This bulletin outlines some of the potential risks and liabilities, as well as providing advice for protecting shellfish farmers, shellfish consumers, and the public from harm.

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Property Disputes

- Public Access to the beach and water is a major issue in the United States.
  - An estimated 70% of nation’s coastline is privately owned, which makes securing public access difficult.

- The Fifth Amendment of the U.S. Constitution states that private property “shall [not] be taken for public use, without just compensation.”

- Government attempts to preserve public resources and access can run afoul of this “Takings Clause.”
Takings

- Private property owners are entitled to compensation when land permanently invaded by the government – i.e., for a highway.

- Property owners may also be entitled to compensation if government regulation deprives owner of all economically viable use. Courts look to:
  - Extent of government interference with investment-backed expectations;
  - Character of the governmental activity; and
  - Extent of the economic impact on the property owner.
Recent Example

- Lakefront property owners in Ohio dispute the boundary between state and private land.
  - Ohio claims it is the high water mark.
  - Some deeds say water’s edge or low water mark.
- Dispute is currently in federal court.
  - If court finds for the landowners, some of the Ohio coastal management programs may have exacted a taking requiring compensation.
- Law Center Research and Outreach Activities:
  - Prepared a white paper analyzing federal and Ohio law related to lake boundaries.
  - Wrote several shorter memos summarizing the legal arguments of private landowners and the state of Ohio.
Education

- Director is also adjunct professor teaching undergraduate and law school classes on ocean and coastal law and policy topics.
- Center attorneys guest lecture at Universities around the country.
- The Law Center educates and trains law students in research and writing in ocean and coastal law.
Research Associate Program

- Law students, known as Research Associates, work closely with Law Center attorneys on research projects and contribute articles to Law Center publications.

- Research Associates generally receive hourly wages.
  - Arrangements, however, can be made to receive credit through an independent study program, for example.
The SandBar
Summarizes cases impacting ocean and coastal resource management.
Published quarterly.

Sea Grant Law and Policy Digest
Abstracts of articles published on ocean and coastal law and policy.
Published bi-annually.
Outreach – Fact sheets

- An estimated 7.2 million U.S. residents took cruise vacations in 2002 and the industry continues to offer more cruises at more U.S. ports of call.

- Cruise ships are subject to a confusing patchwork of international, federal, and state laws which managers and general public need to understand.

- Law Center Outreach Activities:
  - Production of fact sheets explaining the regulatory framework.
  - Issuance of announcements as federal agencies and states pass new regulations and laws.
Legal Issues Regarding the Post-Harvest Treatment of Oysters

Stephanie Showalter
Sea Grant Law Center
University of Mississippi
Aquatic Nuisance Species in The Gulf of Mexico
A Guide for Future Action by the Gulf of Mexico Regional Panel and the Gulf States

Stephanie Showalter
National Sea Grant Law Center
Coastal Zone ‘03
Questions????

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