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Ocean and Coastal Case Alert

The National Sea Grant Law Center is pleased to offer the November 2025 issue of *Ocean and Coastal Case Alert*.

The Case Alert is a monthly newsletter highlighting recent court decisions impacting ocean and coastal resource management. (NSGLC-25-03-11).

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FIFTH CIRCUIT

United States v. Ernst Jacob GmbH & Co. KG, No. 23-1969, 2025 WL 2985314 (1st Cir. Oct. 23, 2025).

In April 2006, an oil tanker carrying more than 300,000 barrels of oil ran aground off the coast of Puerto Rico. The U.S. Coast Guard found only cosmetic hull damage and no oil discharge. Efforts to refloat the vessel damaged roughly 7,000 square meters of coral reefs. The United States sued the owner/operator and its guarantor under the Oil Pollution Act, seeking removal costs and natural resource damages, including restoration compensation estimated to be more than \$29 million. The district court granted partial summary judgment for the United States, relying on the Coast Guard's determination that the vessel posed a substantial threat of a discharge of oil. On appeal, the First Circuit reversed and remanded, explaining that the court had not determined whether the injured resources belonged to, were managed, or controlled by the United States. Additionally, the court noted the "substantial threat" element of liability must be proven in court by a preponderance of the evidence rather than at the discretion of the Coast Guard under an arbitrary or capricious standard of review.

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FOURTH CIRCUIT

Wille v. Lutnick, No. 24-1734, 2025 WL 3039191 (4th Cir. Oct. 31, 2025).

The U.S. Court of Appeals for the Fourth Circuit upheld the National Oceanic and Atmospheric Administration's (NOAA) fisheries "Approach Rule," which barred people and vessels from approaching within 50 yards of Hawaiian spinner dolphins. The plaintiffs challenged the regulation, arguing it was unconstitutional because regulations must be signed by a principal officer to take effect. The regulation was signed by an inferior officer, a non-Senate confirmed official. After litigation began, Dr. Richard Spinrad, the principal officer overseeing NOAA's fishery service division, signed the regulation. The district court held the ratification to be valid and granted summary judgment in favor of the government. On appeal, the court affirmed the lower court's ruling and held that ratification was valid under ordinary agency law principles and it cured any constitutional issues that may have been present at the time of publication. Additionally, the court concluded that the ratification was not impermissibly retroactive.

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NINTH CIRCUIT

Coastal Env't Rts. Found. v. Naples Rest. Grp., LLC, No. 23-55469, 2025 WL 3085956 (9th Cir. Nov. 5, 2025).

Coastal Environmental Rights Foundation (CERF), an environmental non-profit, brought a Clean Water Act (CWA) citizen suit against Naples Restaurant Group. CERF alleged the group had discharged pollutants into the bay in Long Beach, California, without a permit during an annual 4th of July fireworks show. At the 2021 show, one of the fireworks flew low and exploded in the sea. The district court found that the firework exploded in the bay, however, the court found this was not enough to show continuing violation of the CWA. Soon after this decision, the Los Angeles Regional Water Board began issuing a National Pollutant Discharge Elimination System (NPDES) permit specifically for fireworks. The restaurant obtained one. On appeal, the Ninth Circuit held that because there was no reasonable possibility of future violation, the case was rendered moot and remanded to be dismissed.

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California

Center for Biodiversity, v. Nat'l Marine Fisheries Serv., No. 22-CV-00117-JD, 2025 WL 2998164 (N.D. Cal. Oct. 24, 2025).

In 2023, the U.S. District Court for the Northern District of California ruled that the National Marine Fisheries Service (NMFS) could not indefinitely delay a take reduction plan for endangered humpback whales while continuing to issue incidental take permits. NMFS and an environmental group subsequently entered into a settlement agreement that included take reduction plan deadlines. Recently, NMFS requested a stay of the deadlines due to the lapse in appropriated funds and, according to the court, suggested extending the stay until after the restoration of funds. The district court denied the stay, noting that the Department of Commerce's shutdown plan allowed several exceptions in which NMFS could continue operating, including monitoring resources "... to avoid irreparable harm to U.S. fishery or protected species trust resources and taking necessary regulatory action." NMFS did not demonstrate to the court that the monitoring exception did not apply or that other grounds existed for granting the stay.

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ELEVENTH CIRCUIT

United States v. F.E.B. Corp., No. 24-12383, 2025 WL 3089337 (11th Cir. Nov. 5, 2025).

The United States acted to enforce their claim to a deed of title for Wisteria Island against FEB Corporation, which had owned the island since 1967. Wisteria Island is a barrier island created off the coast of Key West by the Navy. The island was created as a repository for dirt unearthed in dredging operations in the 1920s and 1940s. In 1952, the State of Florida sold the island despite the Navy's objections, and in 1953, the Submerged Lands Act (SLA) transferred to states the title and ownership of "lands beneath navigable waters." The SLA contained an exception reserving ownership of lands created by the United States for its own "use." F.E.B. Corporation bought the island in 1967. In 2011, the United States attempted to reassert ownership. In a prior appeal, the Eleventh Circuit noted that the issue is whether a depository for dredged material is an intended "use" by the government and remanded the case to the district court. On remand, the district court ruled in favor of the United States. On appeal, the Eleventh Circuit Court of Appeals agreed, finding the Navy intended to use the island as "a protective feature, a site for potential improvements, and a place for future dredge-spoil deposits." The exception within the SLA applied, and though there was some contrary historical evidence, it was not enough to overturn the district court's decision.

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Ctr. for a Sustainable Coast v. U.S. Army Corps of Eng'rs, No. 24-14171, 2025 WL 2954093 (11th Cir. Oct. 20, 2025).

The U.S. Court of Appeals for the Eleventh Circuit affirmed a district court's grant of summary judgment in favor of the U.S. Army Corps of Engineers (Corps) in a case challenging the letter of permission for construction of a 500-foot dock on Cumberland Island, a national seashore. The Center for a Sustainable Coast argued that the National Environmental Policy Act requires the Corps to produce an environmental impact statement because the project is 1) a major project and 2) it significantly affects the quality of the human environment. The Corps disagreed, believing that the project was minor due to its size and scale. Additionally, the Corps found the environmental impact to be negligible to the area's air, water, land, and wildlife. The district court granted summary judgment in favor of the Corps, finding the letter of permission to be neither arbitrary nor capricious. On appeal, the court of appeals affirmed, granting summary judgment in favor of the Corps, finding deference to the Corps to be reasonable.

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D.C. CIRCUIT

District of Columbia

Save Long Beach Island, Inc., et al. v. U.S. Dep't of Commerce, et al., No. 1:25-CV-02214 (CJN), 2025 WL 2996157 (D.D.C. Oct. 24, 2025).

Plaintiffs, including a Long Beach Island, New Jersey interest group, filed a lawsuit challenging the National Marine Fisheries Service's (NMFS) authorization for "taking" marine mammals in the construction of an offshore wind farm. The Empire Wind project was authorized for Level B harassment under the permits, allowing them to commit "any act of pursuit, torment, or annoyance which ... has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns." NMFS granted the permit with extensive mitigation requirements, and it did not allow mortally wounding animals. In June 2025, Empire Wind was granted summary judgment. A month later, several plaintiffs filed suit in federal district court. The plaintiffs moved for a stay or a preliminary injunction. The court evaluated whether allowing the wind farm construction would cause "irreparable harm" and the balance of equities between the parties. The court found that since the effect of the permitted "taking" was merely to disrupt behavioral patterns, the risk was not certain and/or great. The court also declared that "halting construction would impose substantial costs and likely upend Empire Wind's ability to finish the project," putting the balance in Empire Wind and NMFS's favor. Accordingly, the court denied the motion for a stay or preliminary injunction.

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Cape Cod Charter Boat Ass'n, et al. v. Burgum, et al., No. 1:25-CV-1457 (TNM), 2025 WL 3182686 (D.D.C. Nov. 14, 2025).

Charter fishing boat companies filed suit to challenge portions of the Atlantic States Marine Fisheries Commission's Atlantic Striped Bass Interstate Fishery Management Plan, alleging the per-day catch limits for the species were overly strict. The groups also challenged the structure of the Atlantic States Marine Fisheries Commission more broadly, alleging its structure violated the U.S. Constitution, federal law, the Maryland Constitution, and Maryland law. The court dismissed the suit, finding the companies failed to establish Article III standing to bring their claims and that several claims were barred by sovereign immunity.

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