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Ocean and Coastal Case Alert

The National Sea Grant Law Center is pleased to offer the October 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-25-03-10).

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FIFTH CIRCUIT

Harrison Cnty. v. U.S. Army Corps of Eng'rs, No. 24-60553, 2025 WL 2860643 (5th Cir. Oct. 9, 2025).

A coalition of Mississippi local governments and industrial groups (collectively, Harrison County) filed suit against the U.S. Army Corps of Engineers (Corps), alleging that the Corps' operation of the of the Bonnet Carré Spillway led to the unlawful incidental "takes" of bottlenose dolphins in the Mississippi Sound in violation of the Marine Mammal Protection Act. Harrison County sought a requirement for the Corps to obtain an incidental take authorization before opening the spillway in the future. The federal district court dismissed the case for lack of subject matter jurisdiction, and the Fifth Circuit Court of Appeals affirmed. The appellate court found that Harrison County failed to establish Article III standing because it could not prove that future Spillway openings were imminent and that injury would occur.

[Opinion Here](#)

Louisiana

Louisiana v. Biden, No. 2:25-CV-00071, 2025 WL 2808502 (W.D. La. Oct. 2, 2025).

A coalition of states and other plaintiffs filed suit challenging President Biden's issuance of two memoranda that indefinitely precluded certain areas of the Outer Continental Shelf from oil and gas leasing. The plaintiffs sought declaratory and injunctive relief, arguing that the withdrawal memoranda exceeded the president's constitutional authority and violated the Outer Continental Shelf Lands Act (OCSLA). After President Trump rescinded the withdrawal memoranda, the defendants sought dismissal, arguing that the suit was rendered moot, lacked standing, and was barred by sovereign immunity. In May, the court ruled that the case was not moot. This month, the district court granted the plaintiff's motion for summary judgment and declared President Biden's withdrawal memoranda unlawful for violating OCSLA because they were for an unspecified period.

[Opinion Here](#)

NINTH CIRCUIT

Alaska

Forrer v. Dep't of Fish & Game, Bd. of Fisheries, No. S-18752, 2025 WL 2884498 (Alaska Oct. 10, 2025).

An Alaska resident sued the state, alleging the state's fisheries management resulted in declines in chinook and chum salmon populations in the Yukon and Kuskokwim Rivers. He claimed that the Alaska Constitution required the state to manage the fish according to the sustained yield principle. The superior court dismissed the suit for failure to state a claim because the plaintiff did not challenge any specific policy, regulation, or action by the state. On appeal, the Alaska Supreme Court affirmed. The court found the judiciary could not grant injunctive relief because the judiciary cannot make policy determinations and the claim for declaratory relief was not justiciable because it did not identify specific actions or policies to be addressed.

[Opinion Here](#)

Dep't of Fish & Game v. Cook Inletkeeper, No. S-19006, 2025 WL 2739050 (Alaska Sept. 26, 2025).

The Commissioner of the Alaska Department of Fish and Game (ADFG) instituted a ban on jet skis in two designated Critical Habitat Areas (CHAs) in 2001. In January 2021, the Commissioner repealed the ban, citing changes in technology and a directive from the governor. As part of this decision, the Commissioner engaged in a public comment period and consulted existing scientific literature and staff. In May 2021, several nonprofit groups sued ADFG and the Commissioner, claiming the Commissioner lacked statutory authority to repeal the prohibition and that the repeal was inconsistent with how CHAs should be managed. The groups also argued the Commissioner's actions violated the Administrative Procedure Act. The Superior Court agreed with the groups and granted them summary judgment. The Alaska Supreme Court disagreed. The court held that the repeal was within the Commissioner's authority, consistent with the aims of the CHA statutes, and that the repeal was reasonable and not arbitrary. The case was remanded to the lower court for summary judgment in favor of ADFG.

[Opinion Here](#)

Alaska v. U.S. Dep't of the Interior, No. 3:22-CV-00078-SLG, 2025 WL 2719340 (D. Alaska Sept. 24, 2025).

In a boundary dispute between the State of Alaska and the United States over the northwest corner of the Arctic National Wildlife Range (now part of the Arctic National Wildlife Refuge), the district court denied Alaska's motion for summary judgment. It affirmed the Interior Board of Land Appeals' (IBLA) interpretation of Public Land Order (PLO) 2214 that establishes the Staines River rather than the Canning River as the boundary of the Range. The State of Alaska argued that PLO 2214 designated the Canning River as the boundary. Conversely, the United States argued that the Staines River, which is an offshoot/distributary of the Canning River, is the proper boundary. The court found that the order was ambiguous, but upheld IBLA's interpretation, granting the agency deference because its interpretation was reasonable.

[Opinion Here](#)

Hawaii

Kia'i Wai O Wai'ale'ale v. Bd. of Land & Nat. Res., No. SCWC-23-0000383, 2025 WL 2803767 (Haw. Sept.

30, 2025).

After a water diversion system for a hydropower plant was damaged in 2019, the operator of the plant found the repairs too expensive and stopped using the system. However, the Board of Land and Natural Resources (BLNR) renewed the system's permits in 2021 and 2022. Two nonprofits requested a contested case hearing, claiming that the permits violated constitutionally protected native Hawaiian traditional and customary practices. BLNR denied the request. On appeal, the Circuit Court of the First Circuit (Environmental Court) found that the diversion had significant impacts on Hawaiian cultural practices and that the exercise of those practices is a property interest entitled to due process protections. Therefore the groups were entitled to contested case hearings. During these proceedings, the permits were allowed to expire by the plant operator. An intermediate appellate court found that due process did not require a contested case hearing, the Environmental Court exceeded its jurisdiction, and the issue of the expired permit was moot. The Supreme Court of Hawaii disagreed. The court held that exceptions to the mootness doctrine applied, the groups had standing and due process property rights based on their traditional and customary practices under the Hawaii Constitution, and contested case hearings were required to protect their due process rights. Lastly, the court reasserted that the Environmental Court has appellate jurisdiction to review BLNR decisions, following a recent Hawaii Supreme Court case.

[Opinion Here](#)

Wai Ola Alliance v. U.S. Department of the Navy, No. CV 22-00272 LEK-RT, 2025 WL 2784456 (D. Haw.

Sept. 29, 2025).

Environmental groups sued the Navy, alleging Clean Water Act violations due to the release of fuels from a bulk fuel storage facility into bodies of freshwater on the island of Oahu. The U.S. District Court for the District of Hawaii rejected the Navy's motion for summary judgment. The court found that there was conflicting evidence over whether the facility continues to discharge pollutants and whether past spills would be likely to repeat.

[Opinion Here](#)

D.C. CIRCUIT

Western Towboat Co., v. NOAA, No. CV 22-2665 (ABJ), 2025 WL 2758005 (D.D.C. Sept. 26, 2025).

After a 2016 drydock capsized in the Monterey Bay National Marine Sanctuary, the National Oceanic and Atmospheric Administration (NOAA) assessed the Western Towboat Company civil penalties under the National Marine Sanctuaries Act (NMSA). The company argued that the agency violated the Administrative Procedure Act because NOAA's commencement of the proceedings was untimely and the case was improperly heard by an Environmental Protection Agency (EPA) administrative law judge (ALJ) rather than a NOAA ALJ. The U.S. District Court for the District of Columbia dismissed the case for a failure to state a claim and for a lack of subject matter jurisdiction because the claims did not challenge a final agency action, and there was no injury for the court to redress.

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