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# Ocean and Coastal Case Alert

**The National Sea Grant Law Center** is pleased to offer the September 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-25-03-09).

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## FOURTH CIRCUIT

***Jackson Creek Marine, LLC v. Maryland***, No. 24-1788, 2025 WL 2525855 (4th Cir. Sept. 3, 2025).

A private tugboat collided into a Maryland bridge, and the owner filed an action under the Exoneration and Limitation of Liability Act to cap damages at the vessel's value. The State of Maryland argued that the doctrine of sovereign immunity prevented this limitation. The U.S. District Court for the District of Maryland disagreed. On appeal, the Fourth Circuit Court of Appeals affirmed, finding that a state's voluntary participation in a limitation proceeding waives sovereign immunity for that specific proceeding.

[Opinion Here](#)

### Maryland

***Sierra Club v. Nat'l Marine Fisheries Serv.***, No. CV 24-2699-TDC, 2025 WL 2550210 (D. Md. Sept. 4, 2025).

Several environmental groups filed suit alleging that a National Marine Fisheries Service's (NMFS) biological opinion for two deepwater crude oil export terminals in the Gulf failed to address the effects on federally protected species and critical habitats in violation of the Administrative Procedure Act and the Endangered Species Act. The U.S. District Court for the District of Maryland denied the defendants' motion to dismiss. The court concluded that *res judicata*, a doctrine that prevents parties from relitigating a claim that has already been decided by a court, did not preclude the current claim. NMFS did not show that a separate case regarding a license for a deepwater oil facility off the coast of Texas was closely related enough to preclude this case. The court also held that the agency failed to show that the environmental groups lack standing to sue.

[Opinion Here](#)

## NINTH CIRCUIT

***Pac. Coast Fed'n of Fishermen's Associations, Inc. v. Nickels***, No. 23-15599, 2025 WL 2553725 (9th Cir.

Sept. 5, 2025).

The Ninth Circuit Court of Appeals affirmed a U.S. District Court for the Eastern District of California ruling that a large drainage project in California's Central Valley qualifies for a Clean Water Act exemption for "discharges composed entirely of return flows from irrigated agriculture." Environmental and fishing groups claimed that the discharges from the project contained pollutants from non-agricultural sources. The Ninth Circuit found that the alleged pollutants were from nonpoint sources or point sources related to crop production and affirmed the district court's judgment.

[Opinion Here](#)

***Confederated Tribes of the Colville Rsrv. v. Teck Cominco Metals Ltd***, No. 24-5565, 2025 WL 2525853

(9th Cir. Sept. 3, 2025).

The Confederated Tribes of Colville Reservation sought damages from a Canadian mining company under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for the lost use of injured natural resources due to the company's discharge of hazardous materials from a lead-zinc smelter into the Upper Columbia River. The tribes included cultural losses in its claim for damages due to the impact on the tribes' ability to use the river for traditional purposes. The U.S. District Court for the Eastern District of Washington granted the company's motion for partial summary judgment, and the court subsequently denied a motion for reconsideration. The Ninth Circuit reversed and remanded, holding that damages for the lost use of natural resources with a cultural component were authorized by CERCLA. The court remanded to the district court to determine whether the tribes sustained damages under CERCLA.

[Opinion Here](#)

### California

***San Francisco Baykeeper, et al., v. U.S. Fish and Wildlife Serv., et al.***, No. 25-CV-01360-LJC, 2025 WL

2528687 (N.D. Cal. Sept. 3, 2025).

Several environmental and sport fishing groups sued the U.S. Fish and Wildlife Service (FWS) for failing to issue a 12-month finding on a petition to list the San Francisco Estuary local population of white sturgeon as threatened under the Endangered Species Act (ESA). FWS suggested a compliance deadline in 2029 due to the backlog of pending petitions and staffing shortages from layoffs and a hiring freeze. The U.S. District Court for the Northern District of California found that the delay had been partially caused by the agency adopting procedures that are inconsistent with ESA deadlines. The court held that the FWS must complete the assessment within nine months.

[Opinion Here](#)

### Hawaii

***Sierra Club v. Bd. of Land & Nat. Res.***, No. SCWC-22-0000516, 2025 WL 2556067 (Haw. Sept. 5, 2025).

For over twenty years the Board of Land and Natural Resources (BLNR) has issued temporary permits to allow a company to divert water streams from East Maui to Central Maui for its plantation and other uses. In November 2019, the Sierra Club requested a contested case hearing over those temporary permits, which BLNR denied. The Sierra Club appealed to the environmental court arguing that due process required a contested hearing before the issuance of the permits. The environmental court agreed and issued a temporary modification of the permits while the litigation proceeded. The appellate court reversed in part, holding that Sierra Club was not entitled to a contested case hearing and that the environmental court lacked jurisdiction to modify the permits. On appeal, the Hawaii Supreme Court reversed. The court affirmed the environmental court's authority to review the permits, modify their terms, and award attorney fees. Lastly, the court affirmed that the Sierra Club's constitutional right to a clean and healthful environment required a contested case hearing.

[Opinion Here](#)

## ELEVENTH CIRCUIT

***Glob. Marine Expl., Inc. v. Republic of France***, No. 24-10148, 2025 WL 2394694 (11th Cir. Aug. 19, 2025).

The Eleventh Circuit held that the Sunken Military Craft Act (SMCA) barred salvage awards for a company's actions regarding a 16th Century French shipwreck off the coast of Florida. The company originally filed an in rem action against the ship, but that case was dismissed by a federal district court. The company then filed an in personam action against France to recover its salvage expenses. The Eleventh Circuit affirmed the district court's ruling that because the vessel was engaged in "military noncommercial service" when it sank during a hurricane, the salvage award was barred by SMCA. The court also found that France was not unjustly enriched by the company's efforts to discover, photograph, and locate the vessel. The court also dismissed claims that France violated the Florida Uniform Trade Secrets Act and tortiously interfered with company's business relationship with the Florida Department of State.

[Opinion Here](#)

***Friends of the Everglades, Inc. v. Sec'y of United States Dep't of Homeland Sec.***, No. 2512873, 2025 WL

2598567 (11th Cir. Sept. 4, 2025).

In August 2025, the U.S. District Court for the Southern District of Florida issued a preliminary injunction barring Florida and the United States from engaging in any additional construction on a detention facility known as "Alligator Alcatraz" and ordering the facility closed. In September, the Eleventh Circuit granted the governments' motion to stay that injunction. The court found that the plaintiffs were unlikely to succeed in showing the facility was subject to the National Environmental Policy Act because it had not yet received any federal funding. The court concluded the balance of harms and consideration of the public interest favored a stay of the preliminary injunction.

[Opinion Here](#)

## D.C. CIRCUIT

***Healthy Gulf v. United States Dep't of the Interior***, No. 24-1024, 2025 WL 2486119 (D.C. Cir. Aug. 29, 2025).

Several environmental organizations challenged the U.S. Department of the Interior's approval of the 2024-2029 National Outer Continental Shelf Oil and Gas Leasing Program. This program is published every five years and details proposed leases and related steps. Under the Outer Continental Shelf Lands Act, the program must 1) consider the economic, social and environmental impacts, 2) the timing and location of leases and 3) evaluate the maximum extent permitted while balancing the economic and environmental impacts. The groups argued the Department failed to adequately assess the risks imposed on vulnerable coastal communities, did not account for the impact on the Rice's Whale, and did not appropriately balance the benefits versus the environmental impact. The D.C. Circuit Court held that the environmental groups had standing to bring the claims, however, their claims did not succeed on the merits because the Department considered the necessary impacts, and its decision making was not arbitrary or capricious.

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