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April 15 2026

# Ocean and Coastal Case Alert

**The National Sea Grant Law Center** is pleased to offer the April 2026 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-26-03-04).

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## FIFTH CIRCUIT

***Arnesen v. Lutnick,*** No. 24-60055, 2026 WL 850356 (5th Cir. Mar. 27, 2026).

The U.S. Court of Appeals for the Fifth Circuit affirmed a lower court's grant of summary judgment in a challenge to Amendment 54 of the Gulf Reef Fisheries Fishery Management Plan (FMP). The Amendment reduced the annual catch limit for greater amberjack for both the commercial and recreational sectors by over 70%, with the goal of rebuilding the stock by 2027. Several commercial fishermen challenged the amendment, arguing that it was invalid because members of the Gulf of America Fishery Management Council were unconstitutionally appointed. The Fifth Circuit agreed that provisions of the Magnuson Stevens Act granting the Council the power to block certain types of actions by the federal agency constituted actions of federal officers in violation of the Appointments Clause. The court severed those veto provisions but left the rest of the statutory scheme intact. The court declined to vacate the final rule because that veto authority was not used in the adoption of Amendment 54. Additionally, the court found Amendment 54 itself was not reviewable because it was only an intermediate proposal and not a final rule issued by the Secretary.

Opinion Here

### Louisiana

***Atchafalaya Basinkeeper, Inc. v. Spellmon,*** No. CV 23-01697-BAJ-RLB, 2026 WL 917507 (M.D. La. Mar. 31, 2026).

In September 2021, the Miller Hunting Club constructed a dam without obtaining a permit from the U.S. Army Corps of Engineers (Corps). Atchafalaya Basinkeeper and Louisiana Crawfish Producers Association-West notified the Corps of the structure and asserted that fishermen regularly used the waterway, which was now impassable due to the dam. After receiving notice, the Miller Hunting Club submitted an after-the-fact permit application to the Corps, seeking authorization to obstruct a navigable waterway and discharge fill material. The Corps granted the permit under Nationwide Permit (NWP) 14. The environmental groups challenged the permit, arguing that the Corps acted unlawfully under the Clean Water Act (CWA) and exceeded its authority under the Rivers and Harbors Act (RHA) by issuing an after-the-fact permit and failing to properly consider required NWP conditions. The court agreed in part, holding that the Corps acted arbitrarily and capriciously under the Administrative Procedure Act by failing to adequately evaluate General Condition 9 and Regional Condition 7. Accordingly, the court vacated the permit. However, the court rejected plaintiffs' broader argument that the Corps exceeded its statutory authority under the RHA by issuing after-the-fact permits.

Opinion Here

***Atchafalaya Basinkeeper, Inc. v. Spellmon,*** No. CV 24-00381-BAJ-EWD, 2026 WL 917509 (M.D. La. Mar. 31, 2026).

A federal district court in Louisiana permanently enjoined a U.S. Army Corps of Engineers (Corps) permit for a wetland project known as the East Grand Lake Project, finding that the Corps' decision violated the Clean Water Act (CWA) and the National Environmental Policy Act (NEPA). In 2018, the Louisiana Coastal Protection and Restoration Authority (CPRA) submitted a proposal for the project, which was later withdrawn due to insufficient mitigation of wetland impacts. In 2022, CPRA resubmitted a revised proposal, and following an environmental review pursuant to NEPA, the Corps issued a Finding of No Significant Impact (FONSI) and granted the permit. The plaintiffs, a group of environmental organizations, challenged the permit, arguing that the Corps failed to adequately evaluate environmental impacts, respond to significant public comments, and properly analyze alternatives under NEPA and the CWA. The district court agreed, holding that the Corps' decision was arbitrary and capricious under the Administrative Procedure Act because its analysis was insufficient and lacked independent evaluation. Accordingly, the court vacated the permit, permanently enjoined the project, and remanded the matter to the Corps to address the deficiencies.

Opinion Here

## NINTH CIRCUIT

***Alaska v. Nat'l Marine Fisheries Serv.,*** No. 24-7276, 2025 WL 4664007 (9th Cir. Mar. 25, 2026).

In 2012, the National Marine Fisheries Service (NMFS) listed two Arctic seal species as threatened under the Endangered Species Act (ESA), triggering NMFS's obligation to designate critical habitat. On April 1, 2022, NMFS issued final rules designating critical habitat for both seals. Alaska challenged those designations, arguing the designated areas were too broad, NMFS should have considered foreign conservation efforts and foreign habitat, and the ESA limits designations to the maximum extent prudent. The district court agreed and vacated the rules, concluding that the designations were unlawful under the ESA and arbitrary and capricious under the Administrative Procedure Act. On appeal, the Ninth Circuit largely disagreed, holding that NMFS acted lawfully and reinstating the designations. The court explained that, for occupied critical habitat, NMFS was not required to show that the entire designated area was itself essential, only that the occupied area contained physical or biological features essential to the species' conservation. It also rejected Alaska's prudency argument, concluding that the not-prudent exception did not apply because habitat degradation remains a major threat to the seals' survival.

Opinion Here

### Oregon

***Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.,*** No. 3:01-CV-640-SI, 2026 WL 836836 (D. Or. Mar. 26, 2026).

The National Wildlife Federation and other environmental groups challenge the operation of the Columbia River System dams, alleging that federal agencies violated the National Environmental Policy Act (NEPA) and that current management violates the Endangered Species Act (ESA) by harming salmon and steelhead populations. The litigation began in 2001 when the environmental groups challenged a biological opinion (BiOp) issued by the agencies and has continued through multiple revised plans. In 2020, the agencies issued an Environmental Impact Statement (EIS) and Record of Decision (ROD), which plaintiffs challenged under NEPA and the ESA. The government agencies moved to dismiss for lack of subject matter jurisdiction, arguing that plaintiffs' claims implicated actions of the Bonneville Power Administration (BPA), which participated in preparing the EIS. Because challenges to BPA actions fall within the Ninth Circuit's exclusive jurisdiction under the Northwest Power Act, the agencies argued the case belonged there. The district court rejected that argument, holding that the plaintiffs' challenge was not to BPA's actions but to the federal agencies operating the dams. The court further concluded that participation in a joint NEPA process does not convert separate agency actions into a single action subject to exclusive appellate jurisdiction.

Opinion Here

### California

***Center For Biological Diversity et al v. U.S. Dep't of the Interior et al.,*** Docket No. 4:24-cv-04651 (N.D. Cal. Mar. 30, 2026).

Several environmental groups challenged Department of Interior regulations promulgated under the Endangered Species Act (ESA) in 2019 and modified in 2024. The court found that the environmental groups had standing and concluded that four of the six challenged regulatory provisions were unlawful because they contradicted the ESA or were arbitrary and capricious. The court invalidated the "reasonably certain to occur" standard for determining the effects of agency actions, as it was more stringent than the statutory requirement of "likely." It invalidated the consideration of non-binding mitigation measures in protecting species. The court also found the definition of "destruction or adverse modification" of critical habitat was found to be unlawfully narrowed by requiring that the value of habitat be diminished "as a whole." The court denied the defendants' motion for a stay or remand, emphasizing the need to avoid further harm to listed species due to the weakened protections under the challenged regulations. However, the court found the 2024 rulemaking did not violate NEPA. Ultimately, the court granted partial summary judgment to both parties, vacating the unlawful provisions and reinstating the versions in effect before the 2019 revisions.

Opinion Here

## D.C. CIRCUIT

***Ctr. for Biological Diversity v. Zeldin,*** No. 24-5101, 2026 WL 850257 (D.C. Cir. Mar. 27, 2026).

The D.C. Circuit Court of Appeals affirmed a lower court ruling vacating the Environmental Protection Agency's (EPA) delegation of the Clean Water Act § 404 permitting program to the state of Florida. As part of its § 404 permit program, Florida proposed a plan intended to streamline ESA review by having the state monitor and protect species through its own technical assistance process with advisory input from the U.S. Fish and Wildlife Service (FWS). The FWS issued a programmatic biological opinion (BiOp) and Incidental Take Statement (ITS) finding that Florida's plan would not jeopardize endangered species. The appeals court found that the FWS's BiOp and ITS did not comply with the ESA. Further, the EPA erred by not consulting with the National Marine Fisheries Service (NMFS) before approving Florida's program. Consequently, EPA's approval of Florida's § 404 permitting program and the associated ESA approvals were vacated.

Opinion Here

### District of Columbia

***Pres. Soc'y of Newport Cnty. v. Burgum,*** No. 23-CV-03510 (APM), 2026 WL 787910 (D.D.C. Mar. 20, 2026).

The U.S. District Court for the District of Columbia granted summary judgment in favor of the Bureau of Ocean Energy Management (BOEM), upholding federal approval of the South Fork Wind project off the coast of Rhode Island. The plaintiffs, nonprofit organizations and nearby property owners, argued that BOEM violated the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA) by failing to adequately identify affected historic properties, provide sufficient notice, and properly assess the project's visual and environmental impacts. BOEM argued that some claims were time-barred, the plaintiffs lacked standing, and that some claims were moot because the project had already been built. The court held that several nonprofit plaintiffs had standing and that their NHPA and NEPA claims were not moot, but it rejected those claims on the merits. Ultimately, the court concluded that BOEM had adequately considered effects on historic properties under the NHPA and had taken the required hard look at the project's environmental impacts under NEPA.

Opinion Here

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