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Ocean and Coastal Case Alert

The National Sea Grant Law Center is pleased to offer the July 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-26-03-07).

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FIFTH CIRCUIT

Ctr. for Biological Diversity v. U. S. Dep't of Transportation, No. 25-60282, 2026 WL 1959172 (5th Cir. July 7, 2026).

Three environmental groups petitioned for review of a Maritime Administration (MARAD) decision authorizing the construction and operation of a deepwater liquefied natural gas export facility in the Gulf. MARAD, an arm of the U.S. Department of Transportation, initially approved the project in 2017 and later asked for an amended application due to project modifications. MARAD issued the license in 2025 without receiving the amended application. The groups alleged that MARAD's approval violated the Deepwater Port Act, National Environmental Policy Act, and Administrative Procedure Act. The Fifth Circuit denied review, finding the petitioners lacked standing because they could not show an injury in fact fairly traceable to the licensing decision.

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SEVENTH CIRCUIT

Wisconsin

Wisconsin v. Johnson, No. 26-CV-401-WMC, 2026 WL 1746659 (W.D. Wis. June 17, 2026).

In response to declining walleye and muskellunge populations, the Lac du Flambeau Band of Lake Superior Chippewa Indians adopted a series of resolutions restricting non-member fishing in nearly twenty lakes within the Lac du Flambeau Indian Reservation. The state of Wisconsin sought a preliminary injunction against the Band, arguing that the Band lacked authority to prevent non-members from fishing on navigable waters within the state. The district court sided with the state, holding that the lake closures were not necessary to avoid catastrophic consequences and that, by attempting to assert sovereignty over lakes within the Reservation, the Band infringed on the state's authority. The court granted the preliminary injunction and enjoined the Band from enforcing the non-member fishing restrictions.

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NINTH CIRCUIT

Yurok Tribe v. U.S. Bureau of Reclamation, No. 23-15499, 2026 WL 1742020 (9th Cir. June 17, 2026).

Endangered sucker species and threatened coho salmon depend on water levels in Upper Klamath Lake and the Klamath River. The Bureau of Reclamation operates a water management initiative, the Klamath Project, that includes water-delivery contracts with local irrigators. To comply with the Endangered Species Act (ESA), the Bureau maintains minimum lake levels and stream flows, reducing water available for irrigation. In litigation over the project, Klamath Irrigation District and Klamath Water Users Association claimed that the Bureau is not required to operate the project in compliance with Section 7 of the ESA. Additionally, they argued the required releases were an unconstitutional judicial taking of their water rights. The Ninth Circuit affirmed the district court's holding that the ESA applies to the Bureau's operation of the Klamath Project, noting previous court holdings that water contracts for water management within the Klamath Project were subject to ESA requirements. The court further held that there was no unconstitutional taking of private property because the decision determined only the ESA's applicability rather than eliminating any property rights in water.

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California

Sable Offshore Corp. v. California Coastal Comm'n, No. 2D CIV. B347601, 2026 WL 1745438, (Cal. Ct. App. June 17, 2026).

Sable Offshore Corp. (Sable) repaired and maintained the Las Flores oil pipelines in California's coastal zone after acquiring them in 2024. Although Santa Barbara County concluded the work was authorized under existing Coastal Development Permits and declined to require new permits, the California Coastal Commission (Commission) issued a cease and desist order and obtained a preliminary injunction. On appeal, Sable argued the Commission lacked authority because the County had already acted. However, a California appellate court affirmed, holding that the Commission had authority under Public Resources Code section 30810. The court explained that the County's decision not to take enforcement action constituted a refusal to act, allowing the Commission to assume enforcement authority. The court further held that a prima facie showing of a Coastal Act violation required the issuance of a preliminary injunction.

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Washington

Coal. to Protect Puget Sound Habitat v. U.S. Army Corps of Eng'rs, No. 2:21-CV-1685-JCC-DWC, 2026 WL 1893207 (W.D. Wash. June 23, 2026).

After the U.S. Army Corps of Engineers (Corps) issued nine Letters of Permission (LOP) to Washington commercial shellfish operators, an environmental protection coalition sued the Corps, seeking revocation of all permits. The coalition alleged that the agency violated the Rivers and Harbors Act and the Administrative Procedures Act by using limited scope permits to authorize commercial aquaculture projects. The court held that the Corps' decision to issue the permits was "arbitrary and capricious," granted summary judgment to the coalition, and vacated the nine LOPs. The court reasoned that the proposed aquaculture projects were not minor, as required under LOP permitting. Each project's size, scale, and long-term impact on Washington's waterways fell outside the scope of LOP permits. However, the court delayed revocation for 60 days to allow appeals. The court has also permitted the operators to continue maintaining and harvesting shellfish already seeded, contingent on each farm receiving an individual Corps permit within six months of the decision.

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TENTH CIRCUIT

Garfield Cnty. v. Trump, Nos. 23-4106 & 23-4107, 2026 WL 1801091 (10th Cir. June 23, 2026).

In 2021, President Biden issued two proclamations under the Antiquities Act of 1906, expanding the boundaries and protections of Utah's Grand Staircase and Bears Ears National Monuments. Utah, along with several other plaintiffs, filed suit, arguing that President Biden ignored the Act's "smallest area compatible" and object designation requirements, thereby exceeding the authority granted to him under the law. A district court initially dismissed the claims, holding that sovereign immunity barred judicial review. On appeal, the Tenth Circuit reversed, holding that courts may review presidential proclamations when plaintiffs allege that the President exceeded delegated authority. The case has now been remanded to the district court to determine whether President Biden's proclamations exceeded the Act's authority.

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COURT OF INTERNATIONAL TRADE

Māui and Hector's Dolphin Defenders NZ v. Nat'l Marine Fisheries Svc., No. 26-02462, 2026 WL 2018678 (Ct. Int'l Trade July 13, 2026).

Several environmental groups sought a preliminary injunction for the importation of New Zealand seafood, claiming New Zealand's trawl and set net fisheries catch, harm, and kill Māui and Hector's dolphins in excess of U.S. standards. The groups alleged that the National Marine Fisheries Service's (NMFS) 2026 Comparability Findings violate the Marine Mammal Protection Act (MMPA) regarding incidental dolphin bycatch. Comparability findings are determinations by NMFS that a nation's fishing practices comply with U.S. standards. The Court of International Trade found insufficient evidence to grant the preliminary injunction. However, the court denied NMFS's motion to dismiss the complaint for lack of standing, and the case will continue on the merits.

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