Enforcement Processes and Communications for Incidents in Greater Farallones National Marine Sanctuary

GFNMS Advisory Council Meeting
Bodega Bay, February 19, 2020

Max Delaney, Resource Protection Specialist
Greater Farallones National Marine Sanctuary
Greater Farallones National Marine Sanctuary Management Area

Map produced by: Sage Toczek; Sources: Esri, iGeoSys, 10-km
NOAA National Centers for Environmental Information (NCEI)
Greater Farallones National Marine Sanctuary. January 23, 2019
How is enforcement conducted within the GFNMS Management Area?

1) GFNMS staff are **NOT** the enforcers – we rely on our enforcement partners to bust violators!

2) GFNMS staff track incidents, submit referrals to appropriate enforcement agencies, document actual and potential harm, write damage assessments, and help enforcement personnel with case development.

3) Developing a case package is often complex, challenging, and involves multiple chains of communication throughout NOAA and with partner agencies.
How does GFNMS staff get involved in enforcement in the sanctuary?

- Regularly perform over 30 tasks related to tracking incidents, communicating with colleagues within the ONMS program, other agencies, and NOAA enforcement personnel

- GFNMS must document every known detail of an incident and every one of our actions / communications in order to help build a case

- Minimum of 3 forms to submit while responding to an incident or shortly thereafter
GFNMS – Overview of Resource Protection Topics, Tasks and Activities Related to Enforcement

Data Calls
- Matrix
- Vessel DB
- Annual JEA Priorities
- Misc. WCR data calls

Training
- OLE personnel
- USCG IMD
- USCG Air Station
- USCG LMR
- State Agencies

LE Materials
- Pilot Guide
- Boat Guide

Discharges
- Sewage
- Oil / Hazmat
- Containers
- LTMS Tracking

Compliance Monitoring
- Tomales Bay
- Permits
- CG Auxiliary
- MPWC
- Low Overflights / Drones

Grounded / Deserted Vessels
- Communication with RP
- Info from USCG
- USCG LMR
- Coordination with Land Managers/Partners

Wildlife Disturbance Forms
- Matrix
- Review for OLE Packages

Wildlife Disturbance Incidents
- White Sharks
- Seabirds
- Marine Mammals

Seafloor
- Eelgrass
- Coastal Development
- Vessel/Craft Sinkings

LE Materials
- Training
- Enforcement

Discharges
- Sewage
- Oil / Hazmat
- Containers
- LTMS Tracking
Law Enforcement Partnerships
GFNMS Enforcement Communications Tracking Flowchart

ONMS Headquarters

ONMS West Coast Regional Office

G_FNMS Project Lead Max Delaney

NOAA Office of Law Enforcement

NOAA General Counsel Natural Resources

Site Staff, Sanctuary Advisory Councils & Public

Joint Enforcement Agreement Agencies / Other Partners
Sanctuary Enforcement Issues in GFNMS Management Area

- Marine mammal harassment
- Aircraft violating overflight restrictions (zones)
- MPWC operating outside zones
- Unauthorized construction (e.g. seawalls, moorings, fences in Tomales Bay)
- Illegal attraction / disturbance of white sharks at the Farallones
- Abandonment of beached / submerged vessels and other debris
- Illegal discharges and known or orphan spills
GFNMS staff responsibilities during incidents:

- Receive reports from public / stakeholders
- Document incidents
- Notify NOAA Office of Law Enforcement and other enforcement partners as quickly as possible
- Assess damages / generate reports
- Continue to track the incident and provide updates to NOAA colleagues and other partners
Potential pathways for enforcement cases:

• Strict Liability Cases

• Natural Resource Damage Assessment (NRDA) Cases
Potential enforcement actions:
Strict Liability Cases

• If strict liability (i.e. damages not as part of a Natural Resource Damage Assessment (NRDA)), General Counsel Enforcement Section (GCES) manages the case

• GFNMS submits a report (Incident Action Report (IAR)) that answers specific questions to help enforcement understand the gravity and culpability of the responsible party
A. The **nature and status of the resource** at issue in the incident;
B. The **extent of harm** done to the resource...;
C. The **potential harm** to the resource...;
D. Whether the **violation involves fishing** in closed areas, fishing in excess of quotas, fishing without a required permit, or fishing with unauthorized gear;
E. Whether the incident provides a **significant competitive advantage** over those operating legally;
F. The **nature of the regulatory program** (e.g., limited versus open access fishery);
G. Whether the incident is **difficult to detect** without an on-scene enforcement presence or other compliance mechanisms; and
H. Additional Relevant Information.
Potential enforcement actions: Natural Resource Damage Assessment (NRDA) Cases

- If we are able to conduct a NRDA, General Counsel Natural Resources Section (GCNR) manages the case utilizing the provisions of Section 312 (NMSA)
- Section 312 allows NOAA to: Recover (financially) for destruction, injury, loss and damage to sanctuary resources
- GFNMS develops a Damage Assessment which summarizes what details the impacts to sanctuary resources
- Damages can include the actual harm to the resources as well as the cost of the damage assessment and the reasonable cost of monitoring
Example incident: Vessel Grounding

Data Calls
- Matrix
- Vessel DB
- Annual JEA Priorities
- Misc. WCR data calls

Training
- OLE personnel
- USCG IMD
- USCG Air Station
- USCG LMR
- State Agencies

LE Materials
- Pilot Guide
- Boat Guide

Wildlife Disturbance Forms
- Matrix
- Review for OLE Packages

Wildlife Disturbance Incidents
- White Sharks
- Seabirds
- Marine Mammals

Discharges
- Sewage
- Oil / Hazmat
- Containers
- LTMS Tracking

Compliance Monitoring
- Tomales Bay
- Permits
- CG Auxiliary
- MPWC
- Low Overflights / Drones

Grounded / Deserted Vessels
- Communicatio n with RP
- Info from USCG
- USCG LMR
- Coordination with Land Managers/Partners

Seafloor
- Eelgrass
- Coastal Development
- Vessel/Craft Sinkings

Coordination with State Agencies
- Coordination with Land Managers/Partners
Example incident: Vessel Grounding

Data Calls
- Matrix
- Vessel DB
- Annual JEA Priorities
- Misc. WCR data calls

Training
- OLE personnel
- USCG IMD
- USCG Air Station
- USCG LMR
- State Agencies

Wildlife Disturbance Forms
- Matrix
- Review for OLE Packages

Wildlife Disturbance Incidents
- White Sharks
- Seabirds
- Marine Mammals

LE Materials
- Pilot Guide
- Boat Guide

Discharges
- Sewage
- Oil / Hazmat
- Containers
- LTMS Tracking

Compliance Monitoring
- Tomales Bay
- Permits
- CG Auxiliary
- MPWC
- Low Overflights / Drones

Grounded / Deserted Vessels
- Communication with RP
- Info from USCG
- USCG LMR
- Coordination with Land Managers/Partners

Seafloor
- Eelgrass
- Coastal Development
- Vessel/Craft Sinkings

- Tomales Bay
- Permits
- CG Auxiliary
- MPWC
- Low Overflights / Drones

Grounded / Deserted Vessels
- Communication with RP
- Info from USCG
- USCG LMR
- Coordination with Land Managers/Partners
Example incident: Vessel Grounding

Data Calls
- Matrix
- Vessel DB
- Annual JEA Priorities
- Misc. WCR data calls

Training
- OLE personnel
- USCG IMD
- USCG Air Station
- USCG LMR
- State Agencies

LE Materials
- Pilot Guide
- Boat Guide

Discharges
- Sewage
- Oil / Hazmat
- Containers
- LTMS Tracking

Compliance Monitoring
- Tomales Bay
- Permits
- CG Auxiliary
- MPWC
- Low Overflights / Drones

Grounded / Deserted Vessels
- Communication with RP
- Info from USCG
- USCG LMR
- Coordination with Land Managers/Partners

Wildlife Disturbance Forms
- Matrix
- Review for OLE Packages

Wildlife Disturbance Incidents
- White Sharks
- Seabirds
- Marine Mammals

Seafloor
- Eelgrass
- Coastal Development
- Vessel/Craft Sinkings

Example incident: Vessel Grounding
Example incident: Vessel Grounding

Data Calls
- Matrix
- Vessel DB
- Annual JEA Priorities
- Misc. WCR data calls

Training
- OLE personnel
- USCG IMD
- USCG Air Station
- USCG LMR
- State Agencies

WV Wildlife Disturbance Forms
- Review for OLE Packages

LE Materials
- Pilot Guide
- Boat Guide

Discharges
- Sewage
- Oil / Hazmat
- Containers
- LTMS Tracking

Compliance Monitoring
- Tomales Bay
- Permits
- CG Auxiliary
- MPWC
- Low Overflights / Drones

Grounded / Deserted Vessels
- Communication with RP
- Info from USCG
- USCG LMR
- Coordination with Land Managers/Partners

Wildlife Disturbance Incidents
- White Sharks
- Seabirds
- Marine Mammals

Seafloor
- Eelgrass
- Coastal Development
- Vessel/Craft Sinkings

Wildlife Disturbance Incidents
- Marine Mammals
Example incident: Vessel Grounding

- **Data Calls**
  - Matrix
  - Vessel DB
  - Annual JEA Priorities
  - Misc. WCR data calls

- **Training**
  - OLE personnel
  - USCG IMD
  - USCG Air Station
  - USCG LMR
  - State Agencies

- **LE Materials**
  - Pilot Guide
  - Boat Guide

- **Discharges**
  - Sewage
  - Oil / Hazmat
  - Containers
  - LTMS Tracking

- **Compliance Monitoring**
  - Tomales Bay
  - Permits
  - CG Auxiliary
  - MPWC
  - Low Overflights / Drones

- **Grounded / Deserted Vessels**
  - Communication with RP
  - Info from USCG
  - USCG LMR
  - Coordination with Land Managers/Partners

- **Wildlife Disturbance Forms**
  - Matrix
  - Review for OLE Packages

- **Wildlife Disturbance Incidents**
  - White Sharks
  - Seabirds
  - Marine Mammals

- **Seafloor**
  - Eelgrass
  - Coastal Development
  - Vessel/Craft Sinkings

- **Coastal Development**

- **Vessel/Craft Sinkings**

- **Example incident: Vessel Grounding**
  - Tomales Bay
  - Permits
  - CG Auxiliary
  - MPWC
  - Low Overflights / Drones

- **Coordination with Land Managers/Partners**

- **Communication with RP**

- **Info from USCG**

- **USCG LMR**

- **Wildlife Disturbance Incidents**
  - White Sharks
  - Seabirds
  - Marine Mammals

- **Seafloor**
  - Eelgrass

- **Coastal Development**

- **Vessel/Craft Sinkings**

- **Example incident: Vessel Grounding**
In summary, GFNMS coordinates enforcement in multiple ways:

• Documenting incidents / assessing damages
• Working within NOAA and with partner agencies to build cases
• Providing updates to ONMS colleagues to track longer-term trends
• Conducting law enforcement trainings
• Conduct outreach to the public to prevent violations from occurring
• Working with the WCR office to identify annual enforcement priorities
• Tracking permit compliance (observers)
Contacts

Max Delaney, Resource Protection Specialist
(alternate: Karen Reyna Resource Protection Coordinator)

Greater Farallones National Marine Sanctuary

991 Marine Drive
San Francisco, CA 94129

Phone: 415-970-5255
Email: max.Delaney@noaa.gov