



**U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

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DATE: March 11, 2025

MEMORANDUM

TO: William Sword, Chair
Western Pacific Fishery Management Council

FROM: Frederick W. Tucher
Chief, Pacific Islands Section, NOAA Office of General Counsel

SUBJECT: NOAA OFFICE OF GENERAL COUNSEL, PACIFIC ISLANDS
SECTION REPORT TO THE 202ND COUNCIL MEETING

The NOAA Office of General Counsel Pacific Islands Section is pleased to provide its Report to the 202nd Meeting of the Western Pacific Fishery Management Council, as follows:

Litigation Matters:

1. ***Wille v. Raimondo*, No. 822-cv-689 (D. Md.); No. 24-1734 (4th Cir.):** In 2021, three Hawaii residents challenged the National Marine Fisheries Service's (NMFS's) rule prohibiting approach of Hawaiian spinner dolphins on the grounds that the promulgation of the rule violated the Appointments Clause of the U.S. Constitution. In June 2024, a federal district court granted summary judgment to Federal Defendants. Plaintiffs appealed to the Fourth Circuit Court of Appeals, and briefing is now complete. Oral argument before the Fourth Circuit is scheduled for May 8, 2025.



2. ***Center for Biological Diversity v. NMFS, No. 1:23-cv-00306 (D. Haw.):*** On March 6, 2025, the court granted in part and denied in part Federal Defendants' and CBD's cross-motions for summary judgment. The court granted CBD's motion with respect to (a) NMFS's decision declining to issue protective regulations to address climate change, and (b) NMFS's decision declining to issue protective regulations to address localized threats to the threatened Caribbean corals. The Court also granted NMFS's cross motion not to extend Section 9 prohibitions on localized threats for Indo-Pacific corals on collection and trade, and denied the parties' motions in all other respects. The court remanded the case to NMFS for further proceedings, but did not impose a deadline on the remand. CBD filed its lawsuit in 2023 in the District of Hawaii seeking an order declaring that NMFS violated the Administrative Procedure Act when the agency denied its petition for rulemaking and a remand of the denial for a new determination. The Center had petitioned NMFS in 2020 to establish protective regulations to address climate change, localized threats and trade for 20 species of threatened coral pursuant to section 4(d) of the Endangered Species Act, but NMFS determined that the requested protective regulations would not provide a conservation benefit to the listed corals.