

*Investigative Details:***Interagency Probe of Marine Resource Poaching in the Florida Keys**

A cooperative Federal/State probe of illegal commercial lobster and fish harvesting in the Florida Keys secured the successful Federal prosecution of 8 individuals on felony charges. Three linked investigations (summarized below) documented illegal take and trafficking of marine resources from a national marine sanctuary, a national park, and several national wildlife refuges.

These cases involved the cooperative efforts of law enforcement officers from three Federal agencies – the U.S. Fish and Wildlife Service (USFWS), the National Oceanic and Atmospheric Administration (NOAA), and the National Park Service – and from the Florida Fish and Wildlife Conservation Commission (FWCC).

A related “Case Summary” presents a collective tally of prosecution results, provides an overview of resource impact, and acknowledges other “partners” involved in supporting the three linked investigations detailed below.

**Operation Frost Bite**

This case (the most recently prosecuted) involved the unlawful commercial harvest of more than 8,500 pounds of spiny lobster from the Florida Keys National Marine Sanctuary and various Federal wildlife refuges by two Florida men.

USFWS and NOAA special agents documented the pair’s use of unlawfully installed artificial habitats (called “casitas”) to poach lobster from federally regulated waters over a six-month period from early summer 2008 into the beginning of 2009.

The two men – John Buckheim and Nick Demauro – were arrested in August 2009 after being indicted on Federal felony charges of conspiracy and violating the Lacey Act.

The Lacey Act is a Federal wildlife law that makes it illegal for anyone to transport in interstate commerce fish or wildlife taken in violation of underlying Federal or State laws and regulations.

In this case, underlying violations triggering Lacey Act charges included:

- Constructing, placing and using more than 500 “casitas” in the Florida Keys National Marine Sanctuary and Florida Keys National Wildlife Refuges in violation of State and Federal regulations that prohibit construction of, or harvest from, these structures
- Deliberately sinking a vessel in the Sanctuary to serve as additional artificial lobster habitat in violation of these same regulations
- Harvesting spiny lobster from artificial habitat in violation of State and Federal regulations, which prohibit such harvest
- Harvest of spiny lobster out-of-season, also in violation of State and Federal regulations

Use of artificial habitat greatly facilitates lobster harvest by encouraging the crustaceans to congregate in locations where divers can easily return to collect them. It is also believed to interrupt natural migration from Gulf to Atlantic waters. Studies have shown that the congregation of lobsters on artificial habitat structures may also make the species more susceptible to predation.

Buckheim and Demauro pleaded guilty to conspiracy charges in October 2009. They admitted to making more than 32 dive trips to harvest lobster from artificial habitat and receiving payments of more than \$45,000 from a Key West fish house for the unlawfully acquired lobster.

The illegally harvested lobster, including frozen lobster tails taken in advance of the legal commercial lobster season, had a retail value exceeding \$155,000.

The pair tried to reduce risk of detection by displaying a commercial dive placard (for which they were not eligible under Florida law) on their boat during the legal dive season. They admitted having paid another individual \$4,000 for use of the placard.

At the time of their guilty plea, Buckheim and Demauro agreed to start removing “casitas” from the Sanctuary at their own expense.

In February 2010, the two men were sentenced to:

- Serve one year and one day in Federal prison each followed by two years of supervised release
- Pay more than \$22,700 to law enforcement agencies involved in dive operations and seizure of assets
- Forfeit a pickup truck and the proceeds from the sale of a vessel
- Continue removing artificial habitat from the sanctuary (at time of sentencing, some 300 sites had been removed)

### **Operation Freezer Burn**

This probe, conducted by USFWS and NOAA special agents in partnership with the Florida Fish and Wildlife Conservation Commission, secured the Federal indictment of six Florida residents in connection with large-scale illegal lobster harvest from waters of the Florida Keys National Marine Sanctuary.

Charged with conspiracy (a Federal felony) and felony Lacey Act violations, this group:

- Constructed prohibited artificial habitat for lobster take in the lower Keys
- Harvested significant quantities of spiny lobster out of season from the Florida Keys National Marine Sanctuary and Florida Keys National Wildlife Refuges for commercial sale
- Took lobsters by illegal means (i.e., casitas) during the State-regulated commercial harvest season

As in Operation Frost Bite above, the Lacey Act charges were based on violations of State and Federal regulations that ban the installation and use of artificial habitat and regulate commercial and sport seasons for lobstering.

Both investigations began when authorities received reports alleging that commercial fishermen were building and placing “casitas” in the Keys to create artificial habitat for the spiny lobster. As noted above, use of such structures makes it easy for divers to locate and collect lobsters.

On a single day in July 2008, investigators tracked a boat belonging to one defendant as it moved from site to site in Great White Heron National Wildlife Refuge and Florida Keys National Marine Sanctuary waters, retrieving spiny lobsters out of season from multiple locations. Officers returned to the sites, where dive teams found artificial habitats and freshly wrung spiny lobster heads.

When investigators executed a search warrant at the residence of this defendant on the first day of the legal commercial lobster season in August 2008, they found over 1,700 pounds of stockpiled frozen lobster tails unlawfully acquired before the beginning of the season. They also intercepted five of the defendants returning from a morning expedition to Great White Heron National Wildlife Refuge with another 922 illegally harvested lobsters.

Five of the six defendants indicted for this poaching conspiracy entered guilty pleas, while the sixth opted to stand trial and was convicted by a Federal jury.

Main defendant David Dreifort, who orchestrated the illegal lobstering operation, was sentenced to 30 months in Federal prison followed by 3 years of supervised release. He was also barred from all fishing activities in south Florida for 5 years.

Dreifort’s wife Denise, who was sent to prison for 7 months, will also undergo 3 years of supervised release and is subject to the same 5-year fishing ban. Together they forfeited three boats and three vehicles used in committing the crimes.

The Dreiforts were also the subjects of a civil suit brought under the National Marine Sanctuary Act. Via a consent decree approved in June 2009, the couple agreed to sell two properties in the Florida Keys (including the residence that served as the staging ground for the lobster poaching operation) so that they can reimburse NOAA up to \$1.1 million for damages.

This money will be used in removing more than 1,500 casitas that have been illegally placed in the Florida Keys National Marine Sanctuary and National Wildlife Refuges over the years.

Criminal penalties for three of the other defendants indicted with the Dreiforts (including the individual who stood trial) included

- Prison terms ranging from 2 to 10 months
- Periods of home confinement, electronic monitoring, and supervised release
- 300 hours of community service for one defendant
- Bans on fishing in south Florida for periods of two or four years for two of the three men

The sixth defendant, who played a minor role in the poaching operation and was the first to plead guilty, cooperated with the investigation and was sentenced to one year probation.

### **Operation Tortuga Hooker**

One of the Operation Freezer Burn defendants – Robert Hammer of Miami – was also the subject of a virtually simultaneous investigation of illegal commercial fishing in federally managed waters in the Keys that was conducted by the USFWS and National Park Service.

As a businessman, Hammer held a National Park Service special use permit that allowed him to operate a commercial tourist venture that involved bringing passengers on his boat to Dry Tortugas National Park for sight-seeing and recreational angling.

Federal investigators, however, showed that Hammer was taking advantage of his access to the Park to conduct commercial fishing activities in violation of both his permit and Park regulations.

Hammer unlawfully harvested fin fish from both the Park and nearby ecological reserves (where such fishing is also prohibited) and sold his illegal catch to wholesale, fish dealers and restaurants in the Miami area – a catch with a market value of up to \$30,000.

Hammer was charged with, and pleaded guilty to, Lacey Act violations in connection with his illegal commercial fishing enterprise.

In July 2009, he was sentenced to serve a six-month term of supervised release and was ordered to pay \$20,000 to the National Fish and Wildlife Foundation—a congressionally chartered organization focused on funding wildlife conservation efforts.

The Foundation will use this money to buy sonar and GPS tracking equipment to help law enforcement officers identify and apprehend violators of marine resource and wildlife protection laws in the Florida Keys.

Hammer's sentence in Operation Freezer Burn included 2 months in prison, home confinement for six months with electronic monitoring, and two years of supervised release during which he cannot engage in either commercial or recreational fishing in south Florida.