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NCLA Challenges WA Dept. of Fish and Wildlife's Illegal 24-Hour Surveillance of Crabbing Boats

Sarah Franey; Brent and Mark Young v. Washington Department of Fish and Wildlife; Director Kelly Susewind

Washington, DC (November 14, 2024) – The New Civil Liberties Alliance has filed a [lawsuit](#) against the Washington Department of Fish and Wildlife's Electronic Monitoring Program using GPS technology to constantly track the location and movements of every state-licensed boat that fishes for Coastal Dungeness Crab, whether they are crabbing or not. The Department sustains the program by forcing fishermen to pay for electronic monitoring systems that they must install on their boats or else face criminal sanctions. Representing local crab fishing boat Captains Sarah Franey, Brent Young and Mark Young, NCLA asks the Washington Superior Court to stop this unconstitutional surveillance regime, which does not improve upon cheaper, less intrusive existing methods for monitoring crab stocks.

NCLA's clients use their boats not only to catch Dungeness crab, but also for personal pursuits like transportation and sightseeing. Under the Electronic Monitoring Program, the Department can track their movements during every voyage, regardless of its purpose. The program allows the Department to send this information to law enforcement and other agencies without a warrant. It also takes hard-earned money out of the crab fishermen's pockets by requiring them to pay for the electronic monitoring systems on their boats, despite the program failing to help the government track crab populations or protect wildlife more effectively than it already does.

By forcing crab fishermen to send GPS data on their movements and location history to a government agency, the Department violates the Fourth Amendment of the U.S. Constitution and its Washington State counterpart, which prohibit unreasonable and warrantless searches. The Department's seizure of this property without compensation also defies the Fifth Amendment and the corresponding Washington State law. Finally, the Washington Wildlife Code does not give the Department authority to use the threat of criminal penalties to enforce the arbitrary and capricious Electronic Monitoring Program.

NCLA released the following statements:

"The desire of agencies to always know a regulated party's location is not driven by legitimate regulatory needs. We need this suit to remind the agency that our Constitutions, state and federal, don't allow that."

— **John Vecchione, Senior Litigation Counsel, NCLA**

"The Department is coloring outside the lines to invent new crimes. Washington law makes it a crime to not use Department-mandated equipment that 'may be used to take wildlife, fish, or shellfish.' But GPS devices obviously are not used to 'take' crabs, and so their non-use cannot be criminalized."

— **Sheng Li, Litigation Counsel, NCLA**

"NCLA has already succeeded in setting aside warrantless federal GPS regulations for fishermen that served no legitimate purpose. We anticipate enjoying similar success against Washington State's unconstitutional program."

— **Mark Chenoweth, President, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA's public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights.

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