



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

October 14, 2010

The Honorable Barney Frank
U.S. House of Representatives
Washington, DC 20515

Dear Representative Frank:

Thank you for joining me in Boston to discuss New England fishery management and enforcement issues. I appreciated hearing from fishermen and local elected officials about issues of concern and reaffirming our joint commitment to working together to address them. Dr. Lubchenco and I are committed to improving fishery management nationwide, including strengthening stock assessments, improving outreach to the industry, and increasing trust in law enforcement.

In 2009, the National Oceanic and Atmospheric Administration (NOAA) modified an interim groundfish rule that allowed the New England Fishery Management Council (Council) more time to implement required catch limits and introduce flexibility into the management system. The Council adopted Amendment 16 later that year to expand the use of sector management and adjust the harvest levels for some groundfish stocks in order to meet the overfishing and rebuilding timelines of the Magnuson-Stevens Act (Act). Hearing concerns from the industry, NOAA under Dr. Lubchenco's leadership took opportunities to exercise the flexibility inherent in the law and Amendment 16 to maximize fishing opportunities when such actions were consistent with science.

In addition, the Department of Commerce and NOAA successfully championed over \$47 million in fiscal year 2009 and fiscal year 2010 for the Northeast groundfish fishery to support start-up of groundfish sectors, to conduct at-sea research with the industry focused on developing more selective gear for this fishery, and to develop permit banks that may provide additional fishing opportunities to small-scale participants in the groundfish fishery.

You asked if I had emergency authority to increase catch limits due to economic conditions. Section 305(c)(1) of the Act grants the Secretary of Commerce the authority to "issue an emergency regulation or take interim measures to address an emergency or overfishing..."

Under the NOAA policy applying this authority, I may take economic factors into account in determining whether to promulgate an emergency rule so long as those factors are based on "recent, unforeseen events or recently discovered circumstances." In addition, pursuant to the Act, any exercise of the authority must be based on the best scientific evidence available

that indicates doing so will not undermine the conservation mandates of the Act and any action must give priority to conservation measures. See *NRDC v. Daley*, 209 F.3d 747 (D.C. Cir. 2000).

I am prepared to issue an emergency regulation to revise catch limits whenever there is both sufficient economic and sound scientific data available to meet these requirements. You have graciously offered to provide scientific and economic information that could support the exercise of the emergency rule authority in response to the current situation in New England. Dr. Lubchenco and I look forward to receiving this information and continuing to work with the New England delegation to address this difficult problem.

Dr. Lubchenco and I are working to maximize fishing opportunities for commercial and recreational fishermen and to ensure that they and future generations will have those opportunities. To that end, we wanted to share with you additional measures that NOAA identified to further this commitment.

First, we appreciate Senator Snowe's and your efforts to address Canadian and United States transboundary stock management. The Department of Commerce recognizes, appreciates, and supports the intent of the proposed International Fisheries Agreement Clarification Act to treat the U.S./Canada Transboundary Resources Understanding (Understanding) in a similar fashion to international agreements under the Act for fishery management purposes. We would welcome the opportunity to work with Congress to pass appropriate legislation this year.

Second, we share the view there is a need to increase the precision of stock assessments and for greater involvement of fishermen in collection of scientific information alongside National Marine Fisheries Service researchers through cooperative research projects. To continue the progress on stock assessments, NOAA will host a national fishery science workshop in January 2011 to consider priorities and strategies needed to support full implementation of the Act requirements. The national workshop will include regional sessions to consider stock assessment issues unique to individual Fishery Management Councils. It will be organized with the assistance of the Councils and involve a cross-section of national scientific experts and regional stakeholders.

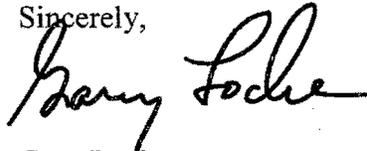
Third, the Obama Administration is committed to improving strong stock assessment and cooperative research capabilities. We will be sending a transfer request to Congress requesting reallocation of \$15 million of prior year funds (that are no longer needed to complete the Decennial Census) for stock assessments and cooperative research projects nationwide.

These above actions combined with our increase in catch limits for pollock, funding for cooperative research and stock assessments, appointment of a Special Master to review enforcement cases, and increased transparency in the use of the Asset Forfeiture Fund illustrate our commitment to fishermen and coastal communities.

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As Governor, I saw firsthand the impact of decisions made in Washington, DC, on fishing communities. As Secretary of Commerce, I am committed to doing everything I can to support sustainable fisheries now and into the future. Thank you for your dedication and partnership on these issues.

Sincerely,

A handwritten signature in black ink that reads "Gary Locke". The signature is written in a cursive style with a large, prominent "G" and "L".

Gary Locke