

## **THE DIRECTOR'S MINUTE**

**December 17, 2009**

**MEMORANDUM FOR:** All NOAA Fisheries Office of Law Enforcement Employees

**FROM:** Dale J. Jones  
Director of Enforcement

**SUBJECT:** Status of the Office of Inspector General's Review

Last Friday I had the opportunity to accompany NOAA Deputy Under Secretary Mary Glackin on a trip to our offices in Gloucester, MA. In addition to me, she was accompanied by the NOAA Director of External Affairs, Andrew Winer and Assistant General Counsel Mary Beth Ward. The primary purpose of her visit was to conduct "listening sessions" with both the personnel of the NOAA Office of Law Enforcement and NOAA Office of General Counsel for Enforcement and Litigation. Over the past six months or more, since about the time that the Office of Inspector General was asked by Dr. Lubchenco to conduct a nation wide review of NOAA Enforcement and GCEL operations, she has observed the growing level of scrutiny that has been focused on our personnel, particularly those in the northeast. Mary is keenly aware that the review itself, media attention and other related dynamics have created a somewhat uncomfortable environment for our employees, particularly those who live and work in Gloucester.

I do not feel that it is appropriate for me to attempt to create a detailed report for you as to what was said there nor will I attempt to capture the content of the questions and comments that were made to DUS Glackin and the others. I will simply say that the discussion was, in my estimation, direct, genuine and meaningful. Suffice it to say that it was refreshing and encouraging to see that she and Andrew Winer were willing to make a special trip to Gloucester to talk with employees there and to listen to what they had to say. I can say that, after initial deliberation with NOAA leadership last spring on how the concerns raised there should be approached, DUS Glackin supported the move to request that OIG conduct a review of our enforcement operations. Given the magnitude of the concerns being raised, she obviously felt that there was a need for an objective and transparent perspective on what we do and how we do business. Though I think that we all knew this would place us under some scrutiny, we also knew and believed then what we still believe and that is that we welcome a close look because we have been doing a professional and competent job of carrying out our duties and responsibilities. Though we know that we work in an environment that can be challenging and controversial at times, we are dedicated to it because we believe in the importance of our mission and role. It is clear to me that Mary has everyone's best interest at heart and is genuinely concerned about what we must do to resolve these ongoing controversies in a constructive and positive manner. She clearly appreciates the dilemma and is concerned about the welfare of all of those involved.

I must say that I have many of the same concerns and hopes. Over the past six or eight months I have been receiving questions and hearing a significant amount of speculative conversation about the Office of Inspector General's review. To date I do not have any specific decisions or dispositions to report. I hope that we will soon. Over the recent months I have heard growing concerns of matters involving "thinning" patience, declining morale, and a growing reluctance to act to carry out duties in fear of criticism or generating complaints among OLE employees. My hope in writing this note is simply to put some perspective on the OIG review relative to its impact or influence on our mission or, more importantly our employees and to mitigate some of that concern. Though it is possible that the review could result in findings that significantly impact our agency, I do not fear or perceive that we will see anything that will have a severe or negative impact on any of our employees or our operations. I can say this primarily because I have great confidence in the work that you do. I know what kind

of work you do. It is that work and the level of high quality work and integrity that has made this agency what it is. Decision by decision, action by action, over many years, your work has proven to be based upon a very sound, reasonable, and reliable foundation. Though we are not perfect and we sometimes make mistakes our actions are most always motivated by a genuine intention and motivation to do the right thing. You have been doing the right thing for the right reasons and it is confidence in that which leads me to believe that we really have nothing to fear coming as a result of the OIG review. We need not ask permission to nor apologize for doing our job.

I know that the NOAA Office of Law Enforcement and our personnel (you) have great respect for the men and women of the fishing industry. We have a mutual commitment to the future of our commercial fishing stocks as well as the other marine resources we have been sworn to conserve and protect by upholding responsibilities relative to the laws we enforce. Persons who violate the laws and regulations that are in place to support this important mission are obviously individuals who do not share our commitment with the fishing industry. We can appreciate the fact the efforts to “walk the tightrope” between facilitating commercial fishing activity and preventing over fishing has been a very complex process that has created tensions and frustrations among all concerned for many years. These are harsh economic times which are perhaps further complicated by the obligation to end over fishing and manage fisheries in a sustainable manner. These are dynamics that make for difficult challenges. However, it is a mutual challenge. None of you have forgotten that nor has the fishing industry. Unfortunately, there are some persons who choose not to respect the obligations of all of the stakeholders in this venture to manage fisheries in a sustainable manner. They are the persons who choose to ignore the requirements established and whom we have had to investigate and who have been prosecuted for what they do. Our records for New England alone reveal that approximately only 2% of all permit holders over the past three years have been prosecuted. For the most part, those who are responsible for the more egregious violations are those who are simply looking out for themselves. It may go without saying but I raise these points simply to acknowledge the fact that there are those who would seek to impede our efforts to stop illegal practices simply because it precludes or minimizes their opportunity to maximize profit at the expense of others and at risk to the fisheries. I state these facts and reiterate these dynamics simply to place some perspective on some of the accusations that have been made.

When one examines the individual actions taken by this agency on a case by case basis, there is very clear and compelling evidence to reflect that such actions have been generated by and are supported by factual evidence of violations by the persons investigated and ultimately prosecuted. This is clear and can be readily documented through our case facts and court findings. I personally have no doubt that the original allegations made, that we are vindictive and overzealous in our enforcement actions, will not be sustained or substantiated. Again, this is because you have been doing your jobs and carrying out your duties within very clearly proscribed parameters in a professional and commendable manner.

Please keep in mind that the request from the NOAA Administrator to the IG was a very general request. It is not an “investigation” and it is not a routine “program review”. It is a response to the request from the NOAA Administrator for a review of enforcement operations nationwide. Therefore what results from their work will be a report to the NOAA Administrator. We are not perfect. There is always room for improvement as well as different perspectives on how an agency should be managed. I therefore have no doubt, in fact I know, that we will receive a series of recommendations in the report. When we do we will work with NOAA leadership to determine how to respond to them and how to implement the decisions that will be made. In short, I think we will have work to do but I know that we will respond constructively and press ahead with the mission requirements of our role and authority. In conclusion I would simply ask that you all press on and continue to the fine work that you have been doing. Thanks!