

Lois Schiffer

From: Lois Schiffer
Sent: Thursday, March 04, 2010 9:03 AM
To: 'jane.lubchenco@noaa.gov'
Subject: Re: TOP NOAA COP SHREDS DOCUMENTS WHILE OIG INVESTIGATION GOING ON
Attachments: image001.gif

Thanks

From: Jane Lubchenco <Jane.Lubchenco@noaa.gov>
To: 'jeff.payne@noaa.gov' <Jeff.Payne@noaa.gov>; Margaret Spring <margaret.spring@noaa.gov>; 'monica.medina@noaa.gov' <Monica.Medina@noaa.gov>; Margaret Spring <margaret.spring@noaa.gov>; lois.schiffer@noaa.gov <lois.schiffer@noaa.gov>
Sent: Thu Mar 04 08:56:04 2010
Subject: FW: TOP NOAA COP SHREDS DOCUMENTS WHILE OIG INVESTIGATION GOING ON

Fyi

Pat Simms
Executive Assistant to the Under Secretary
Office of the Under Secretary, NOAA
14th & Constitution Avenue, NW
Room 5128/HCHB
Washington, DC 20230
Phone: 202-482-3436
Fax: 202-408-9674
BB: 202-309-0278



From: bobfish@aol.com [mailto:bobfish@aol.com]
Sent: Wednesday, March 03, 2010 9:27 PM
To: Bobfish@aol.com
Subject: TOP NOAA COP SHREDS DOCUMENTS WHILE OIG INVESTIGATION GOING ON

<http://seafoodsustainability.us> Current Events - Top Cop Shreds Docs - Hard times coming.

Greetings,

In most situations, when the top law enforcement officer is asked to be removed from his federal position by the Chairwoman of the House Committee overseeing that agency, it makes the talk shows and mainstream media. Where is the outrage from the press? Why shouldn't this be aired to the public the same way killing a seal or whale accidentally is bemoaned? Where is the outrage within NOAA and why isn't NOAA apologizing for the way fishermen and their families have been treated for decades by some rogue enforcement policies?

This issue was not created on Dr. Lubchenco's watch and she has moved forward to revamp the way fishermen have been treated by their government. We congratulate her for that decision. The industry hopes the Office of Inspector General will move from the Law Enforcement complaints to the management arena and ferret out how little scientific work was done on red snapper in the South Atlantic Ocean and also investigate the close connections to certain favored ENGO's. And if they start that inquiry there is a world of information Congress should demand starting with how many billions of dollars have been paid to environmental legal groups who routinely sue NOAA and receive tons of US tax

dollars in inflated legal fees. That would make a good expose' and save lots of money needed to balance the budget or provide funds for some worthwhile programs.

Why isn't the media covering this story? Where were they last Wednesday when we had 5,000 fishermen and families near the steps of the Capitol in a peaceful assembly to address our government. These are the questions of the day.

Bob Jones

Lois Schiffer

From: Greg Duckworth [truetwistreap@yahoo.com]
Sent: Friday, March 05, 2010 3:38 PM
To: jane.lubchenco@noaa.gov
Cc: lois.schiffer@noaa.gov
Subject: excessive, autonomous, ruinous enforcement

Dear Jane Lubchenco,

My name is Gregory Duckworth. I am writing you to express my disappointment in the fact you made a final agency decision in my case prior to the finalization of the OIG report. I believe this fact only reinforces the actions of the past dysfunctional system. You heard complaints of excessive fines and violation of due process combined with illegal activity. You launched the OIG investigation for which I commend you. I take offense with the fact that you could not wait until all the details of the report until making a final agency decision in my case. A one hundred thousand dollar fine and a (4) years out of the fishery is ruinous for me and my entire family. I support a wife and four young children with my commercial fishing income. I had a fifteen year violation free federal fishing career with approximately 3000 trips from 1987-2002. I believe in following all regulations to the best of my ability. In 2002 I was issued an excessive first fishing fine, When I attempted to fight this in the legal system I was met with retaliation and more excessive bogus fines.

I am not sure if you are aware of this fact or not but you should be because you reviewed my case under appeal. There were missing documents that were not on file with the Agency. The ALJ found this fact troubling and interpreted this as somehow hurting my credibility. One of the two documents was sent certified mail with proof of deliver from the US Post Office. The other document was a cover letter attached with my permit renewal . This document was stamped with the agency date stamp. A copy was returned to me. There were both very exculpatory documents. I was severely punished because the judge found it troubling that I had of copy of both these documents and yet the Agency did not.

I was told in the past by an Agency employee to stop complaining because he throws all my correspondences in the garbage. This was a high ranking employee of the OLE. I now discovered that the OIG report discovered the agency shredded documents. I find this unacceptable and insulting.

I believe I have been sufficiently mist-treated long before you ever came on watch. I just wanted to relay this message to you. My family home will is scheduled to be auctioned off on April 29, 2010. The reason for this is plain and simple. Excessive, Ruinous and Corrupt fines from NOAA enforcement. The OIG report confirms that GCEL acts in an autonomous, excessive, and ruinous manner. I have witnessed this first hand on many occasions.

At one time I owned (3) vessels. I supported (9) commercial fishing families by catching fish. I paid taxes. I attempted to follow the all regulations. When I saw corruption in the OLE I reported it. I was targeted for termination long before your watch. It is a shame you were appointed as the executioner of this dysfunctional and corrupt system.

Gregory Duckworth

Lois Schiffer

From: Mary Beth Ward [Mary.Beth.Ward@noaa.gov]
Sent: Thursday, March 11, 2010 1:27 PM
To: Lois Schiffer
Subject: Email from Mitch MacDonald
Attachments: Mary.Beth.Ward.vcf

fyi

----- Original Message -----

Subject: Blood in the water...

Date: Mon, 08 Mar 2010 09:25:03 -0500

From: Mitch MacDonald <Mitch.Macdonald@noaa.gov>

To: Richard Mannix <Richard.Mannix@noaa.gov>, Charles Green <Charles.Green@noaa.gov>, Mary Beth Ward <Mary.Beth.Ward@noaa.gov>

The following blogs were posted in the GDT in response to this Saturday's article about the agents questioning a potential witness in the GSDA case. I warned the IG when they questioned me that I am concerned someone will get hurt physically if complaints and distortions were allowed to go unaddressed. Now the IG himself has testified about complaints as if they're fact and failed to correct the record when congressmen testified incorrectly about his report that he found we were arbitrary. I also don't recall anyone from the Agency attempting to correct any of the record or dispute that we were found to be arbitrary (e.g., the idea that we are arbitrary because we allegedly assess penalties 250% greater than anywhere else). So, we are now known as lawbreakers and in need of corrective action.

It's not just my own paranoia that leads to my concern for agents', attorneys', or other employees' safety. I've had an industry attorney (a more credible source than local attorneys) express to me that he has heard statements that have him seriously concerned about the potential for physical harm and that he's never heard it so bad. I've had an agent tell me about hearing of someone he's investigated (he's a very vocal complainant who was removed from federal fisheries for repeatedly violating federal regulations) allegedly training himself to hold his breath underwater for long periods so that if he has an opportunity to bring an agent with him overboard, he'll last longer underwater than the agent (whether it's dock talk at this stage should be irrelevant, one of the posters below refers to this individual's case). People being forced out of business, whether it's from an enforcement or regulatory action, breeds desperation and anger. I think that allowing heated rhetoric and unsubstantiated complaints go unaddressed and to be fanned by distorted reporting and testimony is part of the problem. I hope and expect that no physical violence will ever occur and that if it does it's not irretrievable for the individuals involved.

*

Jason108 21 hours ago

http://www.gloucestertimes.com/punews/local_story_064221100.html#comment-38428561

ReMAVEN That quote is exactly what they want . FEAR we were afraid at first in RHODE ISLAND but when they have taken everything from you you have nothing to lose .RI was part of the reason the OIG report was so scathing. When all the details come to light people

will fall like dominoes in the enforcement realm Right down to the state level. There is nothing more dangerous than a father with nothing to lose but his children. I will die for them if i have to. The feds have approached me with their weapon unsnapped. Its not the first time Ive been threatened by a thug. They will not scare me again . I have lost too much because of their corruption. may they a;ll end up JOBLESS AND HOMELESS LIKE MANY FISHERMAN have ended up!!!!!!!

3 people liked this comment.

o Like

[<http://www.gloucestertimes.com/punews/local_story_064221100.html#>](http://www.gloucestertimes.com/punews/local_story_064221100.html#>)

o Report

[<http://www.gloucestertimes.com/punews/local_story_064221100.html#>](http://www.gloucestertimes.com/punews/local_story_064221100.html#>)

o Reply

[<http://www.gloucestertimes.com/punews/local_story_064221100.html#>](http://www.gloucestertimes.com/punews/local_story_064221100.html#>)

o More ▼

[<http://www.gloucestertimes.com/punews/local_story_064221100.html#>](http://www.gloucestertimes.com/punews/local_story_064221100.html#>)

Required:

[<http://www.gloucestertimes.com/punews/local_story_064221100.html#>](http://www.gloucestertimes.com/punews/local_story_064221100.html#>)

Login <http://disqus.com/profile/login/?next=article:73080668>>

*

<http://disqus.com/corruptionkiller/>>

corruptionkiller 20 hours ago

http://www.gloucestertimes.com/punews/local_story_064221100.html#comment-38430501>

When pushed by these corrupt bastards.. most people stepped back out of fear and the threat of their corrupt ways. Now there is nowhere else to go..... except for the jugular.

=====

From other posts claiming he was charged \$10,000 per page, the user "corruptionkiller" appears to be one of Stephen Ouellette's clients, and his "tally sheet" seems to be drawn from attorney Ouellette:

corruptionkiller 1 day ago

http://www.gloucestertimes.com/punews/local_story_064221100.html#comment-38277594>

Who is keeping the tally sheet

- (1) shaking down witnesses
- (2) ruinous fines
- (3) shredding documents
- (4) obstruction of justice
- (5) duration of over 15 years
- (6) illegal expenditures
- (7) flaws in the ALJ system
- (8) false testimony under oath
- (9) extortion
- (10) violation of due process by no miranda rights
- (11) illegal search without a search warrant
- (12) GCEL employees withholding exculpatory evidence
- (13) GCEL employees issuing knowingly false charges
- (14) GCEL employees violating Rules of Professional Conduct
- (15) GCEL employees violating NOAA Ethics rules
- (16) GCEL employees filing false legal motions
- (17) entrapment
- (18) posting false statements on the OLE web page
- (19) illegally notifying the media before respondents are even charged (Remember Andy Cohen)
- (20) violation of the US Constitution which states all citizes are free from excessive government fines
- (21) GCEL employees use of a corrupt judicial system giving predetermined verdicts of guilt (read the affidavit of former ALJ Jeffie Massey

(22) GCEL and OLE employees unethically traveling with the judges that render decisions. I read that one such trip was to Malaysia in 2005. Attendees included Charles Juliand, Andy Cohen and here is the clincher ALJ Parlene McKenna. To me... that doesn't pass the "sniff test". Just plain old looks unethical

(23) GCEL employees can hide their corruption by being exempt from taking the witness stand. they are also exempt from a deposition.

(24) perjury by OLE employees

(25) Breaking and entering with the intent to seize assets while said company is in bankruptcy proceedings, without a warrant from the bankruptcy court. Once seized, auctioned off assets and took the proceeds from bankruptcy court. A violation of the federal bankruptcy code to obviate the process without the consent of the bankruptcy court.

Lois Schiffer

From: Dr. Jane Lubchenco [Announcement@noaa.gov]
Sent: Thursday, April 08, 2010 3:03 PM
Subject: Message From the Under Secretary - Preservation of Records and Cooperation with Oversight Reviews

Each of us plays an important role in the preservation of records that support our mission in accordance with Federal law and regulations. Pursuant to 44 U.S.C. 3301, a ``record'' includes

``all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them."''

Under Federal law, all agency records must be preserved and may not be destroyed unless authorized by an agency's records retention schedule or the Government-wide General Records Schedules. Records include records in a variety of hard-copy and electronic media such as paper, disks, CDs, DVDs, photographs, e-mail, videotapes, and audiotapes.

NOAA has an established policy for the management of records that we create and receive in fulfilling our individual roles in support of NOAA's missions. The NOAA Administrative Order 205-1 outlines the purpose, scope, roles, and responsibilities in managing our records under the law. Compliance with approved records schedules is mandatory. If you are not sure how long a record must be retained, do not discard it until you have verified its disposition date by reviewing the records retention schedule, or by contacting the NOAA Records Officer, Pat Erdenberger, patricia.erdenberger@noaa.gov or 301-713-3540 x213, or the Records Liaison Officer for your line or staff office (see attached list). I intend to ensure that an annual reminder of these record retention requirements is issued to all NOAA staff, to emphasize the importance of compliance with these requirements.

Compliance with these records retention requirements is even more critical in the course of litigation, formal reviews, investigations and audits conducted by various oversight organizations - such as the Department of Commerce's Office of Inspector General (OIG) and the Government Accountability Office (GAO). Full cooperation during these reviews and investigations is essential to ensure the continued integrity of our programs and the people and organizations that manage these programs.

I am asking that each NOAA manager reinforce in appropriate forums (staff meetings, orientations for new employees, etc.) the importance of compliance with these record preservation requirements and providing full cooperation with formal oversight reviews conducted by OIG and GAO. It is my expectation that we will each do our part to ensure these requirements and expectations are met.

Jane Lubchenco, Ph.D.

Under Secretary for Oceans and Atmosphere

Attachment

NOAA Records Liaison Officers

NOAA Staff and Corporate Offices

- Legislative Affairs - Tim Bagley
- Office of Communications - Nicky McClurkin
- General Counsel - Gina Jackson
- Office of the Chief Administrative Officer - Rosa Sorrell
- Office of the Chief Financial Officer - Rose Fleming
- Office of Acquisition and Grants - Carol Christian
- Office of the Chief Information Officer - Sarah Brabson
- NOAA Marine and Aviation Operations - Nancy Jackson
- Office of Workforce Management - Cynthia Burley
- Program Analysis and Evaluation - Cheryl Yates
- Office of the Federal Coordinator for Meteorology - Erin McNamara
- Office of Education - Donna Idlet

NOAA Line Offices

- National Ocean Service - Mike Aslaksen
- National Marine Fisheries Service - Mike Justen
- National Weather Service - David Murray
- National Environmental Satellite, Data, and Information Service - Christine Carpino
- Oceanic and Atmospheric Research - Nicholas Leivers

- Program Planning and Integration - Tejuana Hickerson

This message was generated for the Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator by the NOAA Information Technology Center/Financial and Administrative Computing Division

Lois Schiffer

From: Mary Beth Ward [Mary.Beth.Ward@noaa.gov]
Sent: Thursday, March 04, 2010 8:38 PM
To: Lois Schiffer
Subject: [Fwd: GDT take on shredding]
Attachments: Enforcement.History.xls; CRS collected edited Mitch.xls; Mary.Beth.Ward.vcf

fyi

----- Original Message -----

Subject:GDT take on shredding

Date:Thu, 04 Mar 2010 12:01:49 -0500

From:Mitch MacDonald <Mitch.Macdonald@noaa.gov>

To:Richard Mannix <Richard.Mannix@noaa.gov>, Charles Green <Charles.Green@noaa.gov>, Charles R Juliand <Charles.R.Juliand@noaa.gov>, "Deirdre.L.Casey" <Deirdre.L.Casey@noaa.gov>, Mary Beth Ward <Mary.Beth.Ward@noaa.gov>, Susan S Beresford <Susan.S.Beresford@noaa.gov>

As usual, this article, like the hearings yesterday, includes many misstatements. In response to Zinser's query, there was no investigation going on at the time (only a review). If something like this happened at a fish house, agents wouldn't broadcast it to Congress or the public before investigating it. Once investigated, then it would be handled appropriately based on the facts, not appearances. If it is accurate that in this case the shredding was in the planning for about a year, the NOAA agents would have recognized fairly quickly that there was no threat.

It is very disconcerting that Mr. Zinser is leading the inquiry into this region and the misperceptions encouraged by his report and testimony are being allowed to stand (for example, Rep. Jones testified yesterday that the IG report found that the Agency is arbitrary rather than accurately quoting that the IG didn't have sufficient information to argue against the claim that the Agency is arbitrary. In the most troubling example for me, Mr. Zinser referred to an /allegation/ that some agent said getting an attorney would hurt as an example of whether agents were providing miranda warnings). I asked Dale for the numbers that his office supplied to the IG (the IG report says they got the numbers from Enf.). The data that Dale forwarded to me are substantially different than the data published by the IG. I've asked Dale if there was source data or other information that his office provided to the IG, but I'm still not sure. It would be great to find out definitively what numbers were used.

In response to Steve Ouellette's oft-stated claims that our penalties were increasing, I asked for EMIS data to analyze whether this was true. I've attached my spreadsheet compilations. At the time of one of my analyses, one which was done earlier in the 2000's and another that I think was done last spring, it appeared as though our amounts were declining. Overall, it appeared at least that our penalties were fairly consistent. When I told Steve Ouellette that our penalties have not increased, he changed his argument to our penalties having remained the same despite the downturn in fisheries participation. (This argument is inapt too because the value of the scallop fishery has increased on a per pound basis since the 90's. Groundfish values have remained fairly constant. On the other hand, there has been a significant decrease in fishing time available for scallopers and groundfishermen as well as a substantial increase in fuel prices.) There were some significant bumps

up in amounts in certain years. Without analyzing it further, I believe this was driven mostly by large-scale cases like Spalt, Sea Rich, and Carter. These were all substantial dealers who were buying illegal catches and trying to hide those amounts through false reporting.

I believe that an analysis of our cases will show that our big penalty cases involve repeat, large-scale, or intentional violators. For example, large-scale dealers, fishermen who created hidden compartments to hide illegal fish, fish smuggling schemes, etc. There are also cases in which we've assessed penalties that further information provided by the respondents caused us to mitigate the assessments. There are reasonable explanations for our penalties that are supported by substantial evidence. The idea that we are arbitrary, however, discredits all of the work we've done. It will make the Fisheries Enforcement Forum and my attendance at Council meetings more difficult. I think it would be perfectly appropriate and really helpful to provide clarifying or correct information in the Agency's response to the IG report. It could be used to reassure the public that the Agency is not arbitrary. It is also consistent with the IG's idea that the Agency must be transparent and forthcoming with both the IG and the public.

IG: NOAA's chief cop shredded documents in November Second hearing spotlights new allegations against Jones

By Richard Gaines
Staff Writer

Dale J. Jones, whose decade as the head of federal fisheries law enforcement has produced a dossier of alleged heavy-handed practices against the fishing community, authorized a mass document-shredding operation last November while under scrutiny by the U.S. Commerce Department inspector general's office, a federal committee chairwoman charged yesterday.

The shredding came to light during the second of two separate House oversight subcommittee hearings into the findings in the yet-to-be-finalized report of Inspector General Todd Zinser.

The revelation of the destruction of documents was made by Madeline Z. Bordallo, D-Guam, who chairs the House Natural Resources Subcommittee on Insular Affairs Oceans and Wildlife. Her statement came at the start of a two-hour hearing - a day after another House panel had grilled Jones and oceans chief administrator Jane Lubchenco about NOAA enforcement wrongdoing in another hearing in Gloucester's City Hall.

"Last week," Bordallo said, "I learned that Dale Jones authorized destruction of documents in November while his office was under investigation by the inspector general."

Bordallo released a statement calling for Jones to be "temporarily relieved of his duties" pending a recommendation from the Inspector General.

The IG has added the document-shredding - estimated at 140 files - to a workload of detailed analyses of specific cases that came to light during his nationwide survey of law enforcement against fishermen by agents of Jones' office - notably by agents policing the Northeast fisheries from their regional offices in Gloucester.

Jones was hired out of the police chief's chair in Hagerstown, Md., to head law enforcement for the National Oceanic and Atmospheric Administration, where he directs more than 200 agents. He has surrounded himself with colleagues from the local police circuit - leading to the

IG's finding that the force operated like criminal, rather than administrative law enforcers, spurring fishermen's complaints that they were regularly treated like "criminals" for even basic, paperwork violations.

Yet, at the first House oversight subcommittee hearing in Gloucester on Tuesday, Jones defended his hiring choices to congressional questioners Dennis Kucinich, D-Ohio, and Massachusetts colleagues John Tierney, D-Salem, and Barney Frank, D-Newton. Jones said his agents, who had little or no fisheries experience, are the best people he could find.

NOAA chief Jane Lubchenco yesterday disagreed with Bordallo about the need for Jones to step aside temporarily. She said she would await the result of Zinser's investigation into the document shredding before deciding on a course of action.

But, Lubchenco conceded, "It does not look good."

Zinser and Lubchenco also appeared at yesterday's hearing of Bordallo's subcommittee meeting in Washington. The proceedings were Web cast and are archived on the House Natural Resources Committee Web site.

Zinser said Jones explained the shredding as a routine event that had been scheduled before his office was brought under investigation at Lubchenco's request. That came after she received a letter from the congressional delegations of Massachusetts and North Carolina.

Zinser said yesterday he did not believe the action was routine; he said he was tipped about the shredding by an "anonymous" telephone tip on the day of the destruction of the files, then "learned from an informant that the shredding had occurred."

"What came to mind," Zinser told the Bordallo panel, "I wonder what the Office of Law Enforcement would have thought if a fishing company did the same thing."

Subcommittee member, North Carolina Republican Walter B. Jones, recalled that more than 5,000 fishermen and their families rallied for congressional help at the side of the Capitol a week ago, believing that (NOAA Fisheries) "was working against them, not for them."

At that "United We Fish" rally, Rep. Jones predicted, "We've got a report from the IG that will bust their butts."

The push for the Inspector General's probe began in Gloucester with state Rep. Ann-Margaret Ferrante, a lawyer who had previously represented the Gloucester Seafood Display Auction. The auction, the linchpin of the port economy and lead broker of fish from the Gulf of Maine, was served a massive allegation of illegal fish brokering in February 2009 and faced a closing of 120 days and a fine of \$335,200 for violations based on self reported documents.

The auction settled the 2009 allegation and threads from two earlier cases Tuesday for a fraction of the proposed penalty fine, and a total of 35 days of closings at times of the choosing of the owners, the Ciulla family. The agreement also left the auction with no record of violations or future liability.

The hearing in Gloucester on Tuesday brought to light from the IG testimony that Jones had also charged international travel to a largely uncontrolled Asset Forfeiture Fund which had \$8.4 million at the end of 2009 from the fines collected from fishermen by NOAA law enforcement and the litigators in NOAA's Office of General Counsel.

NOAA law enforcement had long been suspected by targets of its cases of using the proceeds of their prosecutions for travel and general expenses.

The Times reported in January that, until October – deep into the IG's investigation – NOAA law enforcement agents were free to tap the Asset Forfeiture Fund for travel and "purchases" without authorization.

During the IG's investigation, the rules were changed, and agents were told in a memo that "Effective immediately, all travel and purchases normally paid through the fund are canceled pending further notification. Any fund-related travel/purchase will come to me for review...."

"Submission to headquarters for approval will be on a case by case basis. Call me if you have questions," the official wrote.

In Gloucester Tuesday, Jones said he had no memory of charging international travel to the Asset Forfeiture Fund, but Zinser said he had "preliminary research showing international travel."

Jones and a large contingent of agents and NOAA and Coast Guard officials traveled for a week to Norway in the summer of 2008 for an international conference on fisheries law enforcement.

Zinser said tracing the expenses charged to the fund were difficult to trace because of lack of records.

Rep. Jones yesterday summarized the findings of the IG's probe of Jones' administration.

"Overzealous enforcement – we heard about it for 15 years and tried to get the IG to look at it," he told the Bordallo panel. "A highly regulated clientele and a dysfunctional relationship."

The North Carolina congressman also noted that the size of the agents' workforce is up 40 percent, while the volume of landings is down 5 percent.

In North Carolina, he noted, fishermen's catch landings have fallen 66 percent.

"There are more law enforcement officers policing a shrinking industry," he said.