



State of Rhode Island and Providence Plantations

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Gina M. Raimondo
Governor

September 22, 2017

The Honorable William G. Young
United States District Court, District of Massachusetts
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 2300
Boston, Massachusetts 02210

Re: USA v. Rafael, et al
Case No. 1:16-mj-04138-DHH

Dear Judge Young:

As Governor of the Ocean State, I share a deep concern for the heritage and future of fishing in New England. I am writing to provide my recommendations and perspective on Rhode Island interests in the outcome of the case, **United States v. Carlos Rafael**, particularly regarding groundfish permits currently held by Mr. Rafael. This case is being closely scrutinized and may set a new precedent for how National Oceanic and Atmospheric Administration (NOAA) will handle violators who try to circumvent the regulatory framework for fisheries management under the law.

Rhode Island has a long and proud history of harvesting the abundance of fish from Narragansett Bay and our marine waters, providing food and jobs for our residents. Mr. Rafael's blatant disregard for the law degrades the marine ecosystem, imposes financial harm on Rhode Island commercial fisherman, and shakes the legal foundation of fisheries management. Law-abiding commercial fishermen have been forced to compete with Mr. Rafael's illegal activities, losing opportunity over the years and now facing the potential repercussions on future stock assessments. It should be noted that in addition to harming the interests of commercial fishermen, these illegal actions also diminish recreational fisheries; citizen anglers feel the consequences of Mr. Rafael's illegal activities through reductions in quota resulting from depleted fish populations and stock assessments based on incorrect data.

As you are aware, Mr. Rafael has already plead guilty to criminal conspiracy, false labeling and fish identification, falsifying federal records, tax evasion and bulk cash smuggling. As a result of this guilty plea, I understand you are considering the appropriate sentence. As part of that process, Mr. Rafael may be required to forfeit thirteen of his groundfish permits and the fishing vessels associated with those permits. In accordance with the Federal law governing fisheries, the Magnuson-Stevens Fishery

Conservation and Management Act (MSA), I believe that the NOAA should be directed to redistribute the forfeited permits.

We request you cancel each of Mr. Rafael's groundfish permits and direct NOAA to redistribute the fishing privileges to all eligible commercial permit holders in the greater New England groundfish fleet. Some of the permits in question originated from Rhode Island and, therefore, have not always been New Bedford permits. Thus, permit holders in Rhode Island who have been adversely impacted by the admitted illegal practices should be allowed an opportunity to attain some of the fishing privileges that accrue to those permit holders.

In addition, the appropriate resolution of the case should include restitution to repair the damage done to the fishery. Responsible management of the groundfish fishery remains an ongoing issue, with accountability – and who pays for it – remaining a major challenge. I recommend that Mr. Rafael's fines and any financial resources associated with the settlement of his case or funds acquired from the sale of these permits should be dedicated to a fund to alleviate groundfish fishermen's monitoring cost burden and invest in alternative monitoring options, such as electronic monitoring. The MSA provides NOAA with this authority under 16 U.S.C 1861(f), which specifically identifies that "fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan."

I respectfully submit these recommendations, all of which are aimed at providing an equitable resolution to the collective harm caused by Mr. Rafael's criminal actions. I look forward to working with NOAA and fishery stakeholders throughout the region to salvage from this unfortunate situation a positive, enduring investment for the fishery.

Thank you for considering my views as you make your sentencing decision on this important case.

Sincerely,



Gina M. Raimondo
Governor

cc: Chris Oliver, Assistant Administrator for Fisheries, NOAA
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