

## **THE GLOUCESTER TIMES**

### **NOAA chief bucks Kerry on oysters**

**By Richard Gaines**

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March 22, 2010 10:32 pm

BOSTON — NOAA chief administrator Jane Lubchenco told Sen. John Kerry, state congressmen, other lawmakers and fishermen yesterday she had been advised against removing embattled director of law enforcement Dale J. Jones before the U.S. Commerce Department's Inspector General completed his case studies of possible miscarriages of justice.

But the chief of staff for the IG's office yesterday disputed Lubchenco's claim that she had been advised to hold off on any steps to put Jones or two key Gloucester National Oceanic and Atmospheric Administration enforcement officials on leave.

"We don't advise them to wait or not to wait, that's their call," said Lisa Allen, chief of staff for IG Todd Zinser.

Earlier this month, Zinser had sparked calls for the dismissal of Jones with testimony to two U.S. House oversight subcommittees — telling those panels he found evidence that Jones and other agents charged foreign travel to an \$8.4 million fund built on fines from fishermen, and ordered a mass shredding of documents while investigative teams from the IG's office were on the scene.

Those calls were renewed repeatedly yesterday by Sen. John Kerry and Congressmen John Tierney and Barney Frank during a closed-door meeting Kerry organized on the fish pier with Lubchenco, her top fisheries administrator Eric Schwaab, and about 65 commercial fishermen and industry representatives.

Tierney also urged that Andrew Cohen, agent-in-charge of the Gloucester NOAA enforcements office which polices federal waters from Maine through the Carolinas, and Charles Juliand, NOAA's chief attorney in the region, be removed from their jobs as well.

Both have been associated with the cases against the Gloucester Seafood Display Auction, which recently settled a number of administrative law charges without admitting guilt.

Zinser said in January he was looking into egregious specific cases of abuse by NOAA enforcement that came to his attention last year, but identified only the Gloucester auction by name.

Zinser's six-month national probe and preliminary report issued in January was a scathing indictment of the law enforcement system at NOAA. The probe found, among other things, agents allowed to work without standards or oversight, while the agency

imposed excessive fines, especially to the fishermen and businesses of New England and the Middle Atlantic states policed from the regional offices in Gloucester.

Multiple attendees at the two-hour meeting yesterday told the Times that Lubchenco more than once deflected the requests for action against Jones, who has headed NOAA law enforcement since 1999, saying that IG Zinser advised her against moving to fire or suspend Jones while the IG's office investigations continue.

New Bedford attorney Pamela Lafreniere quoted Lubchenco as saying, "The IG has advised me against making personnel decisions until his reports are complete."

Lefreniere and others at the meeting reported that Kerry pushed back, expressing uncertainty why Lubchenco couldn't relieve him of his duties, essentially putting Jones on administrative leave.

Allen, however, told the Times the IG did not advise federal officials in agencies under investigation about management decisions. She described Lubchenco's problem with Jones as a "management issue."

Lubchenco's press secretary did not respond to calls.

A statement from Kerry's office last night indicated, "We have no information on that."

"But obviously Sen. Kerry previously laid out his concerns about the destruction of documents and the damage it did to trust between our fishermen and the agency," the statement read.

At the news conference following the meeting, which was hosted by Roger Berkowitz, president of Legal Seafoods, Lubchenco said she had asked the IG to come into her agency.

But the request was not made by Lubchenco until June after Massachusetts legislators petitioned the Congressional delegation and the delegation, including the late Sen. Edward M. Kennedy had written to her asserting evidence of vindictive action against the industry warranted the intervention.

The growing anger at law enforcement abuses — long claimed by fishermen and their attorneys, but only recently corroborated by the Zinser's report — dominated the meeting that Kerry promised to call last month after an estimated 5,000 recreational and commercial fishermen, their families and supporters, came to Washington, D.C., from ports up and down the East and Gulf coasts.

The "United We Fish" rally — believed to be the first unified action by typically competing factions of the industry, and the largest fishermen's rally ever in the nation's capital — was aimed at expanding the base in the House and Senate for matching bills designed to write some flexibility into the Magunson Act, which now requires all overfished stocks to be rebuilt by the same deadline, 2014.

The deadline is cited widely by the industry as depressing the allocation of fish well below levels consistent with continued rebuilding.

In a six-page research paper presented to the meeting yesterday, Gloucester attorney Stephen Ouellette said that, in 2008 and 2009, "the fleet landed less than half of the allowed catch."

"The result has been a steady decline in vessels, loss of jobs, loss of infrastructure and overall negative impact on fishermen and fishing communities," he wrote.

"We are currently losing as much as \$500 million per year in landings in the Northeast," Ouellette said, extrapolated to mean the loss of \$1.5 billion to \$2 billion in economic activity.

"The science driving allocations is problematic," New Bedford Mayor Scott Lang wrote in a letter he delivered to Lubchenco in Boston. "The allocations for 'choke' species — pollock, yellowtail, winter flounder — appear extremely conservative.

"Extreme precautions associated with these allocations will terminate fishermen's ability to harvest target species for which he/she may have remaining, but can no longer fish due to inadequate allocations of 'choke' species," Lang said.

Lubchenco has said she did not believe the Flexibility in Rebuilding American Fisheries Act, which was filed in the House by Rep. Frank Pallone, D-N.J., and in the Senate by Charles Schumer, D-N.Y., was the right policy.

Yet, at the hearing, according to Frank, Lubchenco was not able to mount a strong defense of the rigid recovery deadlines for the entire groundfishery.

"I was very encouraged," Frank said afterward. "She's an opponent, and I was impressed by the weakness of her case."

Kerry seemed to hint that he was ready to support Schumer's bill in the Senate.

At the news conference after the private meeting, Kerry said, "The regulations and management of the fishery have to be with some flexibility that is greater than the law as written."

However, Kerry released a statement to the Times saying he'd prefer to find a way to create flexibility without new lawmaking.

Frank, on the other hand, said he believed sentiment for the Pallone and Schumer bills was growing — and that the changes to Magnuson would be approved.

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