

Commerce chief won't widen fishing probe

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January 28, 2011 12:00 AM

NEW BEDFORD — U.S. Commerce Secretary Gary Locke has once again denied the appeals of the fishing industry and political leaders, ruling that he will not expand the group of law enforcement cases to be reviewed by the "special master" looking into fisheries law enforcement abuses.

In a five-page memorandum, Locke one by one denied every request for his intervention in the matter. He said he would:

- Not address cases where no civil penalty was imposed, instead referring them back to NOAA for "lessons learned."
- Not review any cases that went before a federal judge, citing the need for "finality" in the judicial system.
- Not address cases that are currently before an administrative law judge or the NOAA administrator, on the grounds that the inspector general's reports so far have made the courts aware of past abuses and will avoid them today.
- Not address cases that were not brought forward during the investigation by Inspector General Todd Zinser.
- Not put a hold on payment of civil penalties already assessed.

U.S. Rep. Barney Frank, D-Mass., who is attending the international economic summit in Davos, Switzerland, told The Standard-Times, "I am appalled at this latest assault on the fishing industry by Gary Locke." Frank was already angry with Locke for "betraying" him by rejecting Gov. Deval Patrick's call for higher fish quotas and financial help for the industry.

U.S. Sen. John F. Kerry, D-Mass., also objected. "This is a step backwards, and it's unacceptable for Massachusetts. I'm troubled that not only are our fishermen being denied appropriate remedies but they're being forced to pay fines before their cases are even reviewed.

"Our fishermen have been unbelievably patient under incredible economic pressure. They've come forward with fair, straightforward solutions to redress past wrongdoings by NOAA employees and have been rejected at every turn. My colleagues and I will not stop working on this until there is a more just outcome for Massachusetts fishermen."

U.S. Sen. Scott Brown, R-Mass., issued a statement saying: "The latest decision by Secretary Locke represents the Commerce Department and NOAA's ongoing effort to ignore past misdeeds by administration officials and move forward without compensating fishermen who were unfairly impacted. Fishermen should not be forced to pay excessive fines until the special master has completed his investigation. If Commerce refuses to own up to its failings, an independent investigation will be necessary to right the many wrongs our fishermen have suffered."

New Bedford attorney Pamela Lafreniere, who represents fishermen in such enforcement cases, called Locke's decisions "completely and utterly unfair." Many fishermen, she said, were afraid to come forward when the inspector general was soliciting cases because they feared retaliation.

There were others, she said, who were not made aware that the inspector general was investigating, and who should be given a chance to seek a review now.

She said Locke's decision runs counter to the understanding he conveyed to Mayor Scott W. Lang, Gov. Deval Patrick and Frank when they met with him to discuss the law enforcement cases.

Lafreniere said Congress should act immediately to freeze the asset forfeiture fund, which the inspector general identified as a slush fund to pay for cars, boats and travel for the National Oceanic and Atmospheric Administration and for the administrative law judges who were deciding cases and issuing fines.

"Congress should take over the asset forfeiture fund with all due haste," she said. "Congress should do it because everything he says he's going to do he does not follow through. They should not leave this up to him."

Earlier this month, Locke infuriated Lang, Frank and Patrick along with many others when he decided against raising catch allocations and providing emergency financial help for the fishing industry in the wake of the contractions forced by Amendment 16 to the Magnuson-Stevens Act and the imposition of catch shares and sector management.

Regarding the settlements agreed to by boat owners, Lang told The Standard-Times, "People who agreed to these dispositions were in many cases told that if they went ahead, penalties would be far worse if they lost." In that sense, he said, settlements weren't voluntary and need a review.

"Don't stand behind the pretense that these were voluntary actions. There were no voluntary actions. There were no voluntary pleas."

Lang criticized Locke for what he said was using a broken bureaucracy to police itself. And he expressed doubts that Eric Schwaab really will produce a re-examination of the fishing rule-making within the agency.

And he said it was disingenuous of Locke to hold up judicial "finality" as a higher goal than seeking justice in closed cases. The reviewing of judicial decisions "happens all the time," Lang said. Taking the decision about which cases to review out of the special master's authority is "tying his hands," Lang said.

At this point, he said, he has concluded that NOAA needs a top-to-bottom investigation by an outside authority. "There needs to be a full-blown investigation into the entire agency," he said. "The idea that they wouldn't completely take the hood off and look at every single fact pattern is very troubling."

Jim Kendall, a former scalloper and now consultant to the industry in New Bedford, said of Locke's memo: "It doesn't surprise me. That would open them up to so much litigation and scrutiny, I don't think they could have bore it. There were just too many wrongdoings on their part."