



Sustainable eNews

IWMC World Conservation Trust

When it comes to the NOAA Law Enforcement scandal, “we're sorry” doesn't cut it

Editorial by Nils E. Stolpe

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“It's what you would see in embezzlement cases, where no one's watching the store. And if someone's predisposed to take advantage, they do” (Gloucester mayor Carolyn Kirk in an interview with Gloucester Daily Times reporter Richard Gaines addressing the Special Master's report on NOAA fisheries enforcement

[-http://www.savingseafood.org/wbsm/WBSM_2011-05-26.html](http://www.savingseafood.org/wbsm/WBSM_2011-05-26.html)

Much has been made of the coordinated apologies and associated media machinations of Secretary of Commerce Gary Locke and NOAA chief Jane Lubchenco for specific enforcement abuses targeting mid-Atlantic and New England fishermen and associated businesses. Ditto for the return of some fines wrongfully levied as a result of these abuses. I was left with the distinct impression that they felt that after their not quite *mea culpas* they would be able to move on, leaving a whole bunch of satisfied fishing industry folks in their wake.

I don't want to rain on anybody's parade, but they weren't even off to a good start. Sure, some of the industry people who were most egregiously impacted by what it now appears were agency encouraged goon squads - both on the streets and behind the desks - got something back, but are they whole after their individual ordeals? Not hardly. What of their legal fees? Their loss of business? Their personal suffering and that of their families and their employees? For a first-hand grasp of how well they have fared through the min-

Published by IWMC World Conservation Trust, 3 Passage Montriond, 1006 Lausanne, Switzerland. Distributed free every month to supporters of IWMC and the World Conservation Trust Foundation. Editor-in-Chief, Dr. Janice Henke. Advertising enquiries, subscription requests, article submissions, letters and comments should be sent to iwmc@iwmc.org. Please include name, email address and organization in all correspondence. Copyright © 2011 IWMC World Conservation Trust.

May-June 2011

In This Issue

When it comes to the NOAA Law Enforcement scandal, “we're sorry” doesn't cut it
Editorial by Nils E. StolpePage 1

Sea Shepherds Denied Another Opportunity - For NotorietyPage 4

Seals, Lies and Social Media, the Disastrous Effects of Greenspin on People, Animals and the Environment
By Dr. Janice HenkePage 5

NoteworthyPage 7

Red Coral Conservation BreakthroughPage 7



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istrations of Secretary Locke and Ms. Lubchenco, listen to the interview of two of the NOAA victims by Saving Seafood's Bob Vanasse and radio station WBSM's Phil Paleologos (http://www.savingseafood.org/wbsm/WBSM_2011-05-19.html). I can only hope that the aggrieved fishermen and business people find what the Obama Administration has offered them as inadequate as I do and have the wherewithal to seek full compensation for what they've suffered.

But significant as these federal agency depredations were to the 11 people and/or businesses that were singled out by the Special Master for at least partial payback, they are only a small part of a sordid story that continues to plague the domestic fishing industry and the consumers who depend on it for fresh local seafood.

These out-of-control agents, attorneys and judges didn't just arise spontaneously; they were products of a still ongoing devolution of NOAA/NMFS from an agency primarily concerned with supporting fishermen in catching fish into one that is focused on nothing beyond protecting the fish from fishermen. This devolution has peaked with the current leadership at NOAA/NMFS - Ms. Lubchenco is on the record with "*at the global scale, probably the one thing currently having the most impact (on the oceans) is overfishing and destructive fishing gear,*" and her oft-stated goal is fewer boats and fewer fishermen - but this devolution has been going on for most of two decades.

It's impossible to believe that the cops and robbers mentality that was behind law enforcement behavior so repugnant that it occasioned a public apology from a member of President Obama's cabinet could have so blatantly flourished in anything other than a "fishing and fishermen are bad" culture that percolated down from the leadership cadre at NOAA/NMFS. An apology and the return

of a few hundreds of thousands of ill-gotten dollars out of a slush fund a couple of hundred times larger isn't going to change that.

How many press releases in the same vein as one dated June 19, 2009 titled "*NOAA Notifies Gloucester Seafood Display Auction of 10-day Sanction*" by NOAA/NMFS have bombarded fishermen over the last decade? The trumpeting of these discredited NOAA enforcement actions by NOAA/NMFS press offices, actions judged as unacceptable by the Department of Commerce's own Inspector General and a Special Master brought in from outside the agency, has done incalculable harm to the public perceptions of fishermen and fishing. Should we assume that this was unintentional and spontaneous?

And what about "research" such as that carried out by Professors Jon Sutinen and Dennis King and funded by Pew/Lenfest? The conclusion of their article, ***Rational noncompliance and the liquidation of Northeast groundfish resources*** is that the supposed sorry state in the New England groundfish fishery was in large part due to fishermen and those running fishing businesses breaking the law. I did a critique of Sutinen's and King's efforts in a column for the Saving Seafood website

(<http://www.fishnet-usa.com/All%20Stolpe%20Columns.htm#Law%20enforcement>), but hadn't mentioned that their "*special thanks*" went to "*the staff of the NOAA Office of Law Enforcement and NOAA National Marine Fisheries Service regional offices who provided researchers with enforcement data.*" That's not data that I or anyone else should be willing to hang a mortarboard on, but is this research going to be redone in view of the shambles that NOAA law enforcement in New England was in at the time? Is anyone at Pew or Lenfest going to correct the public record?

How much regulatory overkill did this institutionalized (in NOAA/NMFS and a handful of universities, ENGOs and the foundations that enabled them) “you can't trust fishermen” myth cost those fishermen, the businesses they supported, the consumers they supplied and the U.S. taxpayers? The people and organizations that manufactured and perpetuated the myth all profited handsomely, and those profits came out of the holds of U.S. fishing boats and the pockets of U.S. seafood consumers.

*“Fishermen and fish dealers believe that they are treated like criminals.... The regulations are complex, complicated, constantly changing, and in some cases, contradictory.... these occurrences can result in a violation, which in turn, can result in a substantial monetary penalty or permit sanction. Either may be enough to put a fisherman or fish dealer out of business.... This is the plight of the regulated.... in practically every case a pattern of assessing high monetary penalties in order to force a settlement.... The fisherman or fish dealer has no option but to settle because as previously pointed out in this Report and discussed later, they have no confidence that they could get a fair de novo hearing before an ALJ (Administrative Law Judge).” Hon. Charles B. Swartwood, III ret., **Report and recommendation of the Special Master concerning NOAA enforcement action of certain designated cases.** April, 2011 - available at <http://www.noaa.gov/lawenforcementupdates/specialmasterreport.pdf>.*

The people in charge at NOAA/NMFS had to know that judges presiding over their in-house courts were in the position of benefiting from the penalties they assessed; that their enforcement agents and judges were acquiring luxurious yachts, personal automobiles and exotic foreign

travel more easily and with less oversight than should be acceptable; that they were overseeing a force that consisted almost entirely of highly paid criminal agents who were involved almost entirely in civil violations; that data supplied to researchers with the intention of indicting fishermen was, in the most charitable way I can phrase it, suspect. Or if they didn't, they were more grossly incompetent than anyone getting paid with public dollars has any right to be. But it was all ok at NOAA/NMFS because they were catching bad guys who thought fish were there to be caught. In fact, if they were good enough at catching fishermen, NOAA enforcement people got bonuses - bounty hunters with federal “get out of jail free” cards.

If Ms. Lubchenco and Secretary Locke are really interested in changing things at NOAA/NMFS, or if Congress is really interested in seeing that things are changed, the job has to begin with changing this increasingly pervasive agency attitude. What would be the condition of our agriculture industry if the U.S.D.A. looked at farmers the way the NOAA/NMFS leadership so obviously looks at fishermen? Along with importing 80% of our seafood we'd be importing 80% of everything else we eat. If the Secretary of Agriculture announced that his goal was to get rid of farms and farmers he'd be looking for a new job posthaste.

Ask a farmer if the federal government is on his or her side and I'll bet dollars to donuts that you'll get an unqualified yes as an answer. What are the odds of getting the same answer from a fisherman?

The woman in charge at NOAA, the parent agency of the National Marine Fisheries Service, has publicly acknowledged that fishermen are on her hit list. The Secretary of Commerce, her boss, is willing to apologize to a handful of fishermen

when a bunch of his fish cops get caught with their hands in the cookie jar but has yet to address Ms. Lubchenco's "get rid of fishermen" fixation. And need I write yet again that we've reached the point of no overfishing with rebounding stocks in spite of all of those boats and fishermen that she's committed to getting rid of?

So how much do you think the in-house attitude towards fishermen has changed at NOAA/NMFS? Using a Titanic analogy, we've heard the captain and first mate telling us that

they are shifting crew from job to job, messing with the paperwork that keeps everything running about the way it has been, and giving new fake books to the orchestra, and their ship is still unsinkable. They would be telling us this on April 16, 1912 (the ship sank on April 15).

"They completely took due process out of law enforcement.... It was completely Un-American." (New Bedford mayor Scott Lang in the same interview with Gloucester Daily Times reporter Richard Gaines referenced above).

Sea Shepherds Denied Another Opportunity - For Notoriety

The Pacific island nation of Palau has wisely decided to decline offers of assistance from the rogue organization, Sea Shepherd Conservation Society, for the coming months while its own reconnaissance vessel is undergoing renovation in Australia. Palau President Johnson Toribiong had briefly considered an offer from Paul Watson of the Sea Shepherds to "patrol" Palau's coastal zone and extended exclusive economic zone in order to diminish the effects of fish poaching in national waters.

When allied nations heard about the possible involvement of Sea Shepherds, however, they offered the assistance of their own navies to continue to monitor those waters, an action gratefully accepted by President Toribiong, who subsequently informed the Sea Shepherds that their "assistance" would not be necessary.

President Toribiong has welcomed the offers of Australia, the United States and Japan to monitor Palau's waters in this time of economic hardship. He noted that each time his nation's own vessel,

the HI Remeliik, left port that it needed some \$40,000 worth of fuel to do so, and that the cost was more than his nation could afford at this time.

It now appears that a traditional, nation-to-nation agreement has been finalized for the benefit of Palau's security and marine conservation programs. IWMC applauds both the wise decision of President Toribiong and the generosity of the Sasakawa Peace Foundation, a Japanese non-governmental organization, and the generosity of the nations of Australia, New Zealand and the United States. It appears that these entities feel it is prudent to assist in such an effort rather than to allow the unfortunate precedent of an allied nation state being assisted by a criminal organization whose goal is to elevate its reputation through such a venture.

IWMC extends its best wishes to the nation of Palau and to Japan, Australia, New Zealand and the United States, as they contribute their resources to this security effort.

Seals, Lies and Social Media, the Disastrous Effects of Greenspin on People, Animals and the Environment

By Dr. Janice Henke

The nations of the European Union have listened to the non-stop demands of green, animal rights advocates for the last thirty years. The process of eco-protest has now culminated in a huge problem for fish, fishermen, seals and sealers in Canada, Greenland, Iceland and Norway. Unchecked by human predation, the seal population continually grows and adversely impacts the environment of the entire North Atlantic.

Ironically, the animals themselves are suffering; seals eat finned fish and krill, and when those become scarce due to over-predation, seal blubber is diminished in thickness, the animals fight each other as they desperately seek food, and sealers report that their bodies show deep lacerations and gouges as a result. Female animals have less energy reserves, and their bodies produce less milk for the pups, which suffer painful hunger and malnutrition. This deplorably unnatural state is the result of "Save the Seals" campaigns.

In recent years activist organizations' market gurus have convinced Europeans to "click the link" to their governments and to demand that the EU permanently ban the import of seal products into Europe. Trusting people have sent millions of euros to their hero organizations in support of this cause, and millions have contacted their governments with the demand to eliminate the market for seal products. Social media have enhanced the efficiency of this process.

The campaigns have been effective. The EU seal product import ban is in effect, with one exemption; native people in Canada and Greenland may export seal pelts and blubber to EU ports. The gesture is an empty one, howev-



er, because the market price has dropped so low that it costs more to go out and harvest seals than can be realized from the sale of the products. Sealers need to be able to recover the costs of boat fuel and ammunition, and to buy supplies for the fishing season. Because the economic advantage from hunting seals has disappeared, the hunt is no longer a viable economic pursuit for any community of people, whether Inuit or Newfoundland, Quebecois or others.

Because of this reality there is no effective brake on seal population growth, compared to the hundreds of thousands that were harvested annually over the previous decades. In 1981 there were 1.8 million harp seals living in the waters of eastern Canada. By 2011, there are some 10+ million harp seals, and fish stocks are noticeably diminished.

Canada, Iceland and Norway have jointly appealed to the World Trade Organization to find that the seal import ban, imposed in 2010, is unacceptable under its own rules and therefore must be nullified. The WTO rules that product bans can only be justified on grounds of health and safety issues. There are no such health and safety issues in this case. EU governments

enacted the ban in order to eliminate the pressures put on them by misinformed citizens. Activists have convinced the citizens of Europe that the seal hunt is inhumane, and that seals are in danger of extinction due to both hunting and global warming.

The original constraints that the government of Canada put on sealers were management oriented; the population was thoroughly studied and sustainable harvest numbers were enforced through quotas. Kill methods were similarly evaluated and refined over the years. Even though clubbing of young whitecoats was found to result in euthanasia, the Canadian government bowed to international pressures and restricted the harvest to older animals that could be taken only by gunshot to the head. (One exception to this was that some older but still juvenile animals in the Gulf of St. Lawrence could be clubbed, due to the extreme crowding of animals there, because stampeding of seals occurred when guns were used.) The efforts to improve killing methods did not result in less protest action, and the herd continued to grow as fewer and fewer seals were taken, because the market was adversely affected.

The activist-driven seal issue has been contrived and managed for some thirty years, with demands to halt seal harvest becoming increasingly strident and uncompromising, regardless of improved killing methods and elimination of use of the very youngest animals. The modern result is disaster for people, fish, seals, and the entire north Atlantic marine environment. Activist organizations have become enriched and emboldened, to the extent that increased political power through pursuit of other issues is now theirs for the taking. The sustainable use of any living resources can now be attacked through the

strategy of denunciation through an Internet that has become interactive. Good people believe the claims of activism, through “proof” of inhumane killing demonstrated by video. The typical urban person cannot recognize signs that animals are humanely killed, because he or she has no experience or training in this. Therefore, when activist video depicts involuntary movement after a blow or gunshot, such a person is easily convinced that it is evidence of pain and suffering.

Governments originally dealt with each other to negotiate sustainable use of commonly used living resources. They depended on scientific methods to ensure sustainability of harvest, and later, on those same experts to assess actual time to death of various killing methods. Today, no amount of scientific expertise is sufficient to overcome the politicalization of campaigns to end sealing, whaling, and certain fisheries. These have now become “moral” issues, and campaigns are instrumental in removing power from governments, as eco-activism has gained the “power of the people” through the communication revolution. This bodes ill for the environment, for social welfare, and for the future of international relations on a global scale.

IWMC urges that state governments defend their rights to manage their wild resources for the health and benefit of their citizens, their economies, and their natural environments. This present power demonstration by self-serving activist groups is a warning to modern civilization that must be taken seriously, discussed globally, and corrected through political courage and integrity. Failure to do so shall result in ongoing misery for all people and for the resources of this earth.

Noteworthy

Iceland to join WTO complain on EU trade ban on seal products
Iceland has decided to support Canada and Norway in the case against the EU trade ban on seal products. This was decided on a meeting on dispute settlement on the 25th of March. It was also decided on the meeting that Iceland will join the case as a third party member against the EU trade ban. Iceland is one of six countries where seal hunting is still practiced. The others are Canada, Norway and Russia, which are not EU members states; Greenland, which is a Danish region but has autonomy in its domestic affairs; and Namibia in southern Africa. (Source: FIC Seals and Sealing Network - 13 March 2011)

Red Coral Conservation Breakthrough

On 1st June IWMC World Conservation Trust praised the General Fisheries Commission for the Mediterranean (GFCM) for adopting a binding Recommendation for the management of Red Coral that is consistent with the principle of sustainable use and will ensure that the species is properly conserved in the future.

IWMC has played a leading role in promoting the conservation of red coral for several years. As part of this work, IWMC participated in the GFCM process and presented documents that led to the adoption of the Recommendation at the 35th session of the GFCM, held in Rome from 9 to 14 May. IWMC was able to demonstrate that the conservation of the red coral is intertwined with the livelihoods and ancient traditions of thousands of people across the Mediterranean Sea, and argued that common management measures should be implemented in the region.

The need for a greater involvement of GFCM in the field of aquaculture, as well as the need to reinforce fisheries governance and scientific cooperation in the Black Sea was also addressed.