



UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

June 25, 2010

The Honorable John F. Tierney
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tierney:

This responds to your letter of May 12, 2010, regarding the on-going OIG investigations regarding National Oceanic and Atmospheric Administration's (NOAA) Office of Law Enforcement (OLE) and Office of General Counsel for Enforcement and Litigation (GCEL). Your letter seeks clarification as to the status of the OIG's review of specific complaints related to NOAA enforcement personnel and alleged, disparate treatment of members of the fishing industry and excessive fines. We continue to look into these individual cases and will release a report following the completion of our review.

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We included the fisherman's complaints in our report to relate what we were told by the community and to illustrate the experience some in the fishing community have had with NOAA dating back many years and the factors that have contributed to the deteriorated relationship between NOAA and the fishing community, especially in the Northeast. Our report stated that allegations of abusive treatment were not widespread. For the most part the issues we discovered appeared to us to be matters of poor performance and mismanagement. That is why our report also indicated that many of the examples cited appear more appropriate for resolution by a fisheries ombudsman, than an Inspector General investigation (See page 6 of the report).

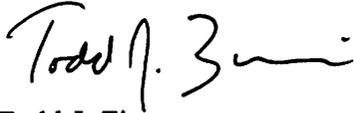
Nonetheless, our report stated that we would complete a follow-on examination of specific complaints and corresponding NOAA enforcement case files to determine whether any additional action was necessary or recommended, either by our office or NOAA. Certain examples cited in the report are not being reviewed, including: cases in which the complainant wished to remain confidential for fear of retaliation; cases that occurred too long ago to allow sufficient evidence to be available; and cases that were involved in on-going litigation. In the course of our review we encountered several obstacles including GCEL case files and records that were inconsistent or incomplete. Despite these obstacles we will do our best to get to the bottom of these complaints and cases. As I stated above, we will issue a report following the completion of this review.

As expressed in her Congressional testimony and other public statements, Under Secretary Lubchenco concurs with the findings and recommendations in our January report and has pledged to take appropriate corrective actions. The Under Secretary has issued a response that outlines the corrective actions NOAA has taken and those it intends to take. I believe the Under Secretary is committed to the reforms she communicated to our office and to Congress. For example, on June 23, 2010, NOAA published an amendment to their civil procedures (15 CFR 904) that eliminates any presumption in favor of the civil penalty or permit sanctions assessed by NOAA. In other words, this amendment puts the burden of proof for penalties on NOAA in matters before Administrative Law Judges. This is a significant reform toward making the process more equitable.

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We appreciate the opportunity to clarify the status of our ongoing work in this area. We are sending identical responses to Senator Scott P. Brown, Senator John F. Kerry, Congressman William Delahunt and Congressman Barney Frank. If you have any questions, or we can be of further assistance, please do not hesitate to call me at (202) 482-4661.

Sincerely,

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Todd J. Zinser

cc: Jane Lubchenco, Undersecretary for NOAA



UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
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June 25, 2010

The Honorable Barney Frank
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Frank:

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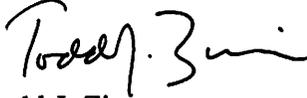
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Todd J. Zinser

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UNITED STATES DEPARTMENT OF COMMERCE
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June 25, 2010

The Honorable William Delahunt
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Delahunt:

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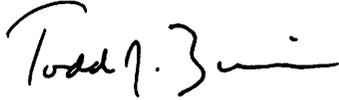
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June 25, 2010

The Honorable Scott P. Brown
United States Senate
Washington, D.C. 20510

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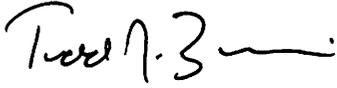
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June 25, 2010

The Honorable John F. Kerry
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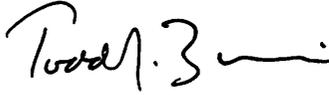
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