

# United States Senate

WASHINGTON, DC 20510

January 19, 2016

The Honorable Kathryn D. Sullivan, Ph.D.  
Under Secretary of Commerce for Oceans & Atmosphere  
National Oceanic and Atmospheric Administration  
1401 Constitution Avenue, NW  
Washington, DC 20230

Dear Dr. Sullivan:

Stopping illegal, unreported, and unregulated (IUU) fishing has been identified as a priority by the Administration, and rightly so. IUU fishing hurts fishermen playing by the rules and undermines consumers' ability to make informed choices. In July, the Commerce Committee reported S. 1334, the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015. In October, the Senate passed the House companion bill, H.R. 774. H.R. 774 has been signed by the President and is now law.

As the sole agency able to initiate civil penalties under the authority of the Magnuson-Stevens Act, the National Oceanic and Atmospheric Administration (NOAA) plays an essential role in combatting IUU fishing. We are writing, however, to express deep concern with the manner in which NOAA is choosing to deal with IUU cases. Specifically, since 2006 NOAA has declined to pursue civil penalties against Mexican lanchas caught illegally fishing for red snapper in U.S. waters. In making this decision, NOAA has cited the administrative burden, low penalty payments, and the humanitarian argument that these fishermen are trying to feed their families. This may have been an accurate assessment a decade ago, but the situation has changed considerably, and it is time for NOAA to change its policy.

In 2013, a scientific analysis determined the amount of red snapper illegally taken had a value of nearly \$12 million annually. The primary targeted species are typically red snapper and shark, and the U.S. Coast Guard (USCG) estimates that 10 percent of the U.S. allowable red snapper catch is illegally caught by these lanchas. In addition, many of the lanchas' owners are believed to be working for one of eight camp owners on the Mexican coast who have been connected to the Gulf Cartel. Based on the foregoing factors, it is reasonable to conclude that the illegal fishing by the lanchas has become a commercial enterprise and is not simply subsistence behavior.

With this new evidence, in 2015, the USCG decided it will, once again, send Fisheries Violation Reports to NOAA for each lancha apprehended. The intent of the USCG is to provide NOAA with all the necessary and accurate information for NOAA to fully exercise its statutory discretion for civil penalties in order to deter this market endeavor. The USCG has invested time and resources into both researching and apprehending the Mexican fishing vessels engaged in illegal fishing across the U.S.-Mexican border. We therefore request that NOAA complete the other necessary step toward ending illegal fishing by issuing civil penalties against the owners of these small Mexican vessels.

Senate Commerce Committee staff first contacted NOAA with this concern six months ago, yet NOAA has been unable to provide a satisfactory answer regarding the agency's refusal to change its position on this enforcement issue. Congress takes the problem of IUU fishing seriously, and we are seeking your cooperation in ensuring that NOAA does the same. We therefore request that you provide an answer as to whether NOAA will change its policy and begin issuing civil penalties against the owners of Mexican lanchas engaged in illegal fishing. If NOAA plans to make this change, please advise when the change will go into effect and how it will be communicated to NOAA personnel. If NOAA will *not* make this policy change, we request an explanation of the evidence NOAA currently uses to justify the decision not to pursue civil penalties against these illegal operators.

Thank you in advance for your personal attention to this matter.

Sincerely,



JOHN THUNE  
Chairman  
Senate Commerce, Science  
& Transportation Committee



ROGER WICKER  
U.S. Senator



JEFF SESSIONS  
U.S. Senator



BILL CASSIDY  
U.S. Senator



JOHN CORNYN  
U.S. Senator