

From: s 9(2)(a)
Sent: Wednesday, 5 November 2014 9:53 a.m.
To: s 9(2)(a)
Cc: s 9(2)(a)
Subject: FW: Scan Data from CHC_C4470

Good morning s 9(2)(a)

As you will be aware the Director Compliance has advised that offenders identified in Operation Achilles will be managed by way other than prosecution. Accordingly the attached letters to offenders will posted today.

Regards

s 9(2)(a)

-----Original Message-----

From: ApeosPort-IV C4470
Sent: Wednesday, 5 November 2014 10:10 a.m.
To: s 9(2)(a)
Cc: s 9(2)(a)
Subject: Scan Data from CHC_C4470

Number of Images: 10
Attachment File Type: PDF

Device Name: ApeosPort-IV C4470
Device Location: Nazereth Ave, Christchurch

Proactive Release – 16 September 2016
Independent Review of Fisheries Prosecution Decisions

30 October 2014

Ministry for Primary Industries
Manatū Ahu Matua



s 9(2)(a)

RE: DISCARDING AND NON-REPORTING OF QUOTA SPECIES/s 9(2)(b)(ii)

The Ministry for Primary Industries (MPI) has concluded an investigation into breaches you have committed against the Fisheries Act 1996 (the Act).

In order to remedy and mitigate the effects of set netting on Hector's Dolphins, the Ministry implemented a set net prohibition within certain areas of the South Island and in order to assess the effectiveness of this action installed surveillance cameras onboard certain fishing vessels.

As a result of that initiative it has become apparent that significant discarding of quota species fish and non reporting of catches has been occurring from the above fishing vessel.

This conduct is in contravention of the Act.

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Both offences carry a maximum penalty of a fine of \$250,000 provided for at section 252 of the Act, and there is a strong likelihood of forfeiture of items used in the offending being sought by the Ministry should the Ministry prosecute in these matters.

MPI has decided in this instance to conclude the matter by way of official warning.

This warning should not be regarded as a precedent and you are advised that any further occurrence may result in immediate prosecution or other action. For the avoidance of doubt, MPI does not anticipate issuing further warnings before enforcement or other action is taken in relation to on-going or future conduct that is in contravention of the Fisheries Act.

Please do not hesitate to contact me should you have any queries regarding this matter.

Yours sincerely

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Investigations Manager
South Investigation Team

Growing and Protecting New Zealand

Operations – Compliance
69 Nazareth Avenue, PO Box 8324
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[Not relevant to review]

3-10-14

1520

s 9(2)(a) Video meeting with s 9(2)(a) and s 9(2)(a)

discuss of Achilles or how to progress. s 9(2)(a) advises that he has considered all reports and discussed with F/m & SLT. Decision is to warn offending entities for discarding not prosecute. The reasons for this are advised, but based on associated risks as highlighted.

He suggests we write a formal letter of warning that we all agree with & get out to listers asap (statute of limitations) We agree that there needs to be a clear line in the sand drawn to remove all indemnity for offending for any future trials.

Direction for s 9(2)(a) to work with Crown Sol to write warning letters. Once this is done s 9(2)(a) & myself to meet with s 9(2)(a) / s 9(2)(a) (s 9(2)(a) ?)

to present findings of this operation.

Observes & better E monitoring in the future will assist deal with future issues.

We need to have a high degree of certainty in any prosecution decision & in this case there are many risks associated.

Direction - s 9(2)(a) & s 9(2)(a) to write warning letters
- warning letters agreed to by myself s 9(2)(a) & s 9(2)(a)
- meet with inshore commercial groups to draw line in the sand & combat the hull issue.

From: § 9(2)(a)
Sent: Thursday, 2 October 2014 10:01 a.m.
To: § 9(2)(a)
Cc: § 9(2)(a)
Subject: CONFIDENTIAL

Hi § 9(2) ,
§ 9(2)(h)

[Redacted]

FM haven't covered themselves in glory either. From reading these reports, discussions and knowledge of previous actions I can see what FM were trying to achieve, they have just gone about it very poorly. As you are aware discarding is a systemic failure of the current system and something we have not been able to get on top of from day 1 of the QMS. FM can't quantify the tonnages involved but we suspect they are significant to the point that they are impacting on stocks. We estimate that if we found the golden bullet to stop discarding, we would probably put over half of the inshore fleet out of business overnight through lack of ACE availability to cover by-catch. Industry themselves are very keen on getting a better handle on this problem as they recognise the sustainability issues and the fact they could have higher TACCs if accurate reporting occurred. This was why they brought into the Better Information Better Value trial that was proposed, but which I have stopped as it was not a good approach.

Some of the issues I see are;

1. this occurred almost 2 years ago, the delay in decision making doesn't look good
2. the 5 fishers are the ones that agreed to take cameras after all others refused to take observers several years before, no doubt because they were doing the same thing. This means we are punishing those who volunteered. That would make it very difficult to get buy in in the future and is punishing those who wanted to help
3. whether true or not this could/would be seen as acting in bad faith
4. § 9(2)(h)
5. investigation reports leaked, what else is out there that could be used to bash us at trial?

As you are aware I have spent the last 5 months considering discards and see this as the single biggest issue we face in our wild stock fisheries. Because of that I have been positioning industry in regards to EM. They are now fully on board and want it to happen soonest. That is a really positive shift and has led to our priority Integrated Electronic Monitoring Reporting System (IEMRS) project. This will see an integrated electronic CE, VMS & EM system on all but every fishing vessel in NZ. That will ultimately deal with the discards issue and give better fisheries management outcomes through better information availability.

My concern is that prosecuting these fishers when there seems to have been an implied immunity could potentially scuttle this very important project. Instead, if you warned, as you suggested in our last communication, we could hang driving the introduction of IEMRS off this case, use it as one of the reasons etc etc.

The prosecution decision is yours to make and I will support whatever that decision is as I can see risks/benefits either way. My comments above are simply from an FM perspective and you need to consider wider issues than just FM.

If you do decide to warn I would suggest talking to s 9(2)(a) [redacted] . s 9(2) [redacted] has swung onside on a lot of issues lately and walking him through this matter would give him a good understanding of the issues, that I think he knows are real anyway, but would show how we are being considered and looking at the big picture. He has a lot of influence over fishers and could be an important driver of change

Regards

s 9(2)(a) [redacted]

Director Fisheries Management

(SEE MAIL)

Proactive Release – 16 September 2016
Independent Review of Fisheries Prosecution Decisions

From: s 9(2)(a)
Sent: Thursday, 2 October 2014 8:04 a.m.
To: s 9(2)(a)
Subject: RE: OP ACHILIES

Lets chat Friday

I worry that putting this in front of a judge will show some poor internal connections within MPI and highlights to me the need for everyone to understand that they work in a regulatory agency and we must be consistent with our stakeholders. This is the same in many sectors where we are caught in the dilemma of Growing the economy to the detriment of protecting (utilisation within legal frameworks)

The issues of delay and investigative technique will be addressed separately.

Think our meeting will be quick on Friday but it is the post decision actions where we need to be aligned

s 9(2)

From: s 9(2)(a)
Sent: Wednesday, 1 October 2014 9:07 p.m.
To: s 9(2)(a)
Subject: Re: OP ACHILIES

we still doing this VC? saw your txt but down in Dunedin tonite so will email you my thoughts in the morning but agree with your call as per txt. perhaps my written thoughts might be useful support should there be any kick back on your decision?

s 9(2)(a)

Director Fisheries Management

On 30/09/2014, at 4:52 pm, s 9(2)(a) wrote:

Hi All

I would like to convene a VTC for Friday afternoon (s 9(2) to arrange) to finalise the MPI position:

Can we all ensure we are familiar with the s 9(2)(h)

As we know there are risks both ways with this case, not to mention the delay aspect.

Please consider the risks for and against and a recommended solution.

s 9(2)

[Not relevant to review]

From: s 9(2)(a)
Sent: Tuesday, 30 September 2014 4:53 p.m.
To: s 9(2)(a)
Cc: s 9(2)(a)
Subject: OP ACHILIES

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From: s 9(2)(a)
Sent: Monday, 29 September 2014 1:37 p.m.
To: s 9(2)(a)
Subject: Catch up
Attachments: 20140929104309659.pdf

Hi Team

We have endorsement from SLT to go forward with the proposed prosecution relating to the Op Achilles files. This was sought following a review by the Crown Solicitor and owing to sensitivities around this issue including media interest and internal MPI issues. This will significantly increase our work load over the next few weeks. [Not relevant to review]

[Redacted content]

s 9(2)

s 9(2)(a) | Investigation Manager South Investigation Team Compliance & Response | Ministry for Primary Industries
Mobile: s 9(2)(a) | Web: www.mpi.govt.nz
[seemail]

[Not relevant to review]

From: s 9(2)(a)
Sent: Monday, 29 September 2014 8:48 a.m.
To: s 9(2)(a)
Subject: FW: Operation Achilles - Privileged and confidential legal advice

Hi s 9(2),

As below, we have the green light to prosecute for Op Achilles offending. Can you have s 9(2) give this top priority to get charges laid in the time frame.

s 9(2)(a) and s 9(2)(a) wish to be kept informed of time frames for this, so if you could keep them up to date please (suggest you cc myself and s 9(2) as well)

[Not relevant to review]

Any issues, see me to discuss.

Thanks

s 9(2)(a)

-----Original Message-----

From: s 9(2)(a)
Sent: Monday, 29 September 2014 8:41 a.m.
To: s 9(2)(a); s 9(2)(a); s 9(2)(a)
Cc: s 9(2)(a); s 9(2)(a); s 9(2)(a); s 9(2)(a)
Subject: RE: Operation Achilles - Privileged and confidential legal advice

Hi all,

Very much appreciate the way in which I have been appraised of developments on this front. It is clear there has been a significant amount of work on this.

In sum, my view is we need to hold people to account when they transgress. If we have concluded prosecution is the best available tool, then we should use it.

My key request is for s 9(2)(a) and myself to be informed on timeframes etc, so we are prepared to handle any contact(s) we might receive.

[Not relevant to review]

Cheers

s 9(2)

s 9(2)(a) | Deputy Director-General | Regulation & Assurance Ministry for Primary Industries | Pastoral House, 25 The Terrace | PO Box 2526 | Wellington | New Zealand
Mobile: s 9(2)(a) | Facsimile: s 9(2)(a) | Web: www.mpi.govt.nz

[seemail]

[Not relevant to review]

From: s 9(2)(a)
Sent: Wednesday, 27 August 2014 1:07 p.m.
To: s 9(2)(a)
Subject: FW: Hector's Dolphin Summer Observer Programme - IAT Report 14.4.56

s 9(2)

As requested

s
9

From: s 9(2)(a)
Sent: Tuesday, 17 February 2009 4:04 p.m.
To: s 9(2)(a)
Cc: #IAT Team
Subject: FW: Hector's Dolphin Summer Observer Programme - IAT Report 14.4.56

Hi s 9(2)(a) has come up to see us.

Just confirming – we are not to produce any intel reports in relation to these matters. We are, however, able to record the information for potential further consideration when appropriate...

Thanks

s 9(2)(a)

From: s 9(2)(a)
Sent: Tuesday, 17 February 2009 4:00 p.m.
To: s 9(2)(a)
Subject: FW: Hector's Dolphin Summer Observer Programme - IAT Report 14.4.56

Hi s 9(2) , I have left a message on s 9(2)(a) phone to check whether he is happy for us to continue to send out intel reports to the districts in or if we can at least keep the information for our own intel purposes OR if he wants us to pull the pin altogether.
I'll let you know when he gets back to me.

From: s 9(2)(a)
Sent: Tuesday, 17 February 2009 3:51 p.m.
To: s 9(2)(a)
Cc: s 9(2)(a)
Subject: RE: Hector's Dolphin Summer Observer Programme - IAT Report 14.4.56

Afternoon

There are potential issues with reports identifying other activity of interest in response to the observer coverage programme for the dolphin summer season.

I expect no action to be taken in relation to this report – if this causes anyone a concern please speak to me.

s 9(2)(a)

From: s 9(2)(a)

Sent: Tuesday, 17 February 2009 3:43 p.m.

To: s 9(2)(a)

Cc: s 9(2)(a)

Subject: Hector's Dolphin Summer Observer Programme - IAT Report 14.4.56

fyi

MFish has commenced observer coverage of up to 50 inshore commercial fishing vessels, principally in the area south of Lyttelton, and on the West Coast of the South Island

The aim of the programme (Hector's Dolphin Summer Observer Programme) is to monitor any interactions between the inshore trawl and set net vessels and protected species, including Maui's and Hector's dolphins.

The first of the temporary Observers was debriefed yesterday and spoke of a substantial quantity of QMS which was discarded during a 5 week period on one vessel – see attached report

IAT will monitor the debriefing process and report more fully at a later date

s 9(2)(a)

Intelligence Analyst
Ministry of Fisheries
Box 1020
Wellington
NEW ZEALAND

Phone s 9(2)(a)

Mobile s 9(2)(a)

Proactive Release – 16 September 2016
Independent Review of Fisheries Prosecution Decisions

[Not relevant to review]

From: s 9(2)(a)
Sent: Wednesday, 18 February 2009 10:57 a.m.
To: s 9(2)(a)
Subject: FW: Hector's Dolphin Summer Observer Programme - IAT Report 14.4.56

Morning

In relation to the message below I understand that it has caused some of you concern. Please be aware that this decision was not made lightly and that I am well aware of the issue in total – including some matters of direction outside of Compliance that you may not be aware of.

The message itself states my direction in relation to this report – at this time. It does not preclude any future activity in response to the issue that the report raises. I can assure you I do expect this to happen. It is my view that the report is reliable enough as it stands – and I am presuming that s 9(2) will have some notes from the debrief. These should be sufficient to inform future decisions.

I am pleased that some chose to speak to me – as I asked. If more clarity is required – keep asking.

You will also see that I have restricted this email to just Compliance.

s 9(2)(a)

From: s 9(2)(a)
Sent: Tuesday, 17 February 2009 3:51 p.m.
To: s 9(2)(a)
Cc: s 9(2)(a)
Subject: RE: Hector's Dolphin Summer Observer Programme - IAT Report 14.4.56

Afternoon

There are potential issues with reports identifying other activity of interest in response to the observer coverage programme for the dolphin summer season.

I expect no action to be taken in relation to this report – if this causes anyone a concern please speak to me.

s 9(2)(a)

From: s 9(2)(a)
Sent: Tuesday, 17 February 2009 3:43 p.m.
To: s 9(2)(a)
Cc: s 9(2)(a)
Subject: Hector's Dolphin Summer Observer Programme - IAT Report 14.4.56

fyi

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IAT will monitor the debriefing process and report more fully at a later date

s 9(2)(a)

Intelligence Analyst
Ministry of Fisheries
Box 1020
Wellington
NEW ZEALAND

Phone s 9(2)(a)

Mobil s 9(2)(a)

Proactive Release – 16 September 2016
Independent Review of Fisheries Prosecution Decisions

From: § 9(2)(a)
Sent: Friday, 11 July 2014 11:30 a.m.
To: § 9(2)(a)
Cc: § 9(2)(a)
Subject: RE: Operation Achilles Letter[§ 9(2)(h)]

Hi § 9(2).

Apologies with the delayed response, I have considered at length what we discussed and whilst I agree with the majority of what you have written below I have the following points to add and an amendment to a possible solution. I do still remain uncomfortable with the idea of warnings for the principle offenders in this matter. I am also acutely aware of the difficulties that a prosecution could bring especially re the criticism that MPI may face and the uncertainty surrounding the evidence that may be given by the Fisheries Management Staff.

My main cause of concern regarding the warnings is simply that I feel we(MPI) would face harsher criticism for a lack of positive action especially as we know that the initial investigation report including photos of the offending is in the hands of industry and all likelihood in the greater public arena. There is the possibility of the video footage being the subject in the future of an OIA. The offending is of such a scale and blatancy that a warning would seem disproportional to the offending and could be seen as MPI sending a wrong message to industry, the public and our trade partners as it may appear the we are undermining our commitment to sustainability and conservation of our fisheries.

In brief, I do agree with the principles of the recommended cause of action with the following alterations.

1. We engage the Crown (§ 9(2)(a)) to make contact with the defence lawyers to outline our position as per your recommendation however the progression is made via a negotiated guilty plea and not a warning. The evidence of dumping is overwhelming and beyond dispute and I believe that fishers and their lawyers are all too well aware of that fact. We would/could offer by way of a compromise a reduced charge/s in this instance a Fishery Act s72 dumping charge but not any section 230(1)(b) false return charges thus ensuring that there would be no deemed value to pay. Whilst the vessels would still be the subject of forfeiture upon conviction we could offset this by agreeing not to dispute any special reasons submissions.
2. As part of this negotiated settlement we could still consider and/or implement further conditions as we see fit. These could include, as listed below, re-declarations of dumped fish, observer placement agreements, cameras and/or developing compliance plans.

Of the Five vessels involved only four involve serious dumping. Three of these, § 9(2)(b)(ii) are represented by § 9(2)(a) whilst the § 9(2)(b)(ii) is represented by § 9(2)(a). As there are only 2 defence lawyers this should facilitate the outcome to any negotiations as I think it would be desirable to have all parties agree to the course of action envisaged. I found both Messrs § 9(2)(a) and § 9(2)(a) very reasonable to deal with.

In regards to 'standing' as per applying for Special Reasons re forfeiture it is my understanding that the § 9(2)(a) vessels are all owned by the skippers so this should not be an issue. The § 9(2)(b)(ii) is owned by the permit holder, however I think that this problem could be overcome as they could still argue that any forfeiture would be manifestly unjust given the circumstances.

If required we could have a further 'round table' to discuss this matter. I will engage § 9(2)(a) with urgency once we have reached an agreed course of action.

Cheers



From: s 9(2)(a)
Sent: Thursday, 26 June 2014 12:56 p.m.
To: s 9(2)(a)
Cc: s 9(2)(a)
Subject: FW: Operation Achilles Letter

Hi s 9(2),

Thanks for the good discussion over this matter. It was good to consider actions and implications for the respective courses of actions as outlined.

We are agreed that we will progress this potentially as warnings for the parties involved in this for the following reasons:

- The strong reliance of Fisheries Manager's credibility in this matter. While staff involved here have stated that no promises were made to fishermen re detected offending, as part of the HDO catch monitoring, there are no notes of meetings or discussions kept. Also we know the staff involved do like to talk and as such may have said or implied certain courses of action re dumping (and other offending) albeit unintentionally. This is a weakness for us, particularly if these staff are not strong witnesses.
- The subject fishermen will/have had the chance to collude in this matter. Should they adopt a defence of unfairness and use each other to be witnesses, we will develop a he said, they said argument vs Fisheries Management staff. This is not desirable and without robust meeting minutes and notes of discussions could prove to be fatal.
- The Fisheries Management staff member in this case (s 9(2)(a)) is also the same person who was running the recent MES (Minimum Economic Size) project. This project allowed fishermen to discard fish legally under a special permit in order to assess discard rates of species. At least one target fishermen in Op Achilles was going to be used in this project. This is a confused issue and no doubt would be raised in court; "MPI is prosecuting for dumping, yet a few months afterwards, allowed the same fisherman to legally dump"!

I have consulted with s 9(2)(a) over this and he suggests we could look at a middle ground between prosecution and straight warning. This would involve fishers incurring some form of punitive solution as well as implementing compliance regimes to ensure offending will be minimised in the future. Potential solutions could be:

- Redecoration of dumped fished (based on our analysis), which would incur deemed values or come of any remaining uncaught ACE holdings for the fishing year.
- A shelving agreement for the new fishing year where equivalent fish to that assessed as dumped, remains uncaught,
- Agreement to have Observers placed on their vessels
- Agreement to have cameras placed on their vessels (although it is unknown if this is practical or not, given resource constraints of this)
- The development of robust compliance plans to assist us ensure non compliance issues are understood and that fishermen will adhere to these plans.

I do not believe we should be devising exact solutions here but we should be challenging these subject fishers to advise how they will put in place steps to show how compliance will be met in the future.

To do this I suggest we engage s 9(2)(a) to write to defence lawyers for these parties and outline our position. This being that we have sufficient evidence to prosecute but would like to progress how we could finalise through warnings. This would be based on the circumstances/uniqueness of the project. To do you should advise s 9(2) of the quantities of fish we believe dumped for each party so he can relay this with the suggestion of redeclaration or shelving of equivalent quota. He should then challenge the lawyers to propose solutions to show that these fishers are serious about changing their behaviours (based on my points above but let defence come up with solutions first) If the proposed solutions are agreeable we can then warn.

The advantage to them is obvious in that they avoid prosecution/costs/fines etc as well as not having their vessels forfeited. There is incentive here but solutions must be more than lip service.

Should fishers refuse to engage or accept, then we can follow the prosecution process, and need to make this clear that by discussing warnings/potential solutions, does not bind our ultimate decision. We want to see real intent to change from these fishers.

Can you consider this please and add any other points you see as relevant before engaging s 9(2) to follow this up on our behalf please.

Regards

s 9(2)(a) - **Regional Compliance Manager (South)**

Compliance and Response | Ministry for Primary Industries
69 Nazareth Ave | PO Box 8324 | Christchurch | New Zealand
Telephone: s 9(2)(a) / Mob: s 9(2)(a)
Web: www.mpi.govt.nz
Email s 9(2)(a)

Ministry for Primary Industries
Manatū Ahu Matua



From: s 9(2)(a)
Sent: Thursday, 26 June 2014 10:04 a.m.
To: s 9(2)(a)
Cc: s 9(2)(a)
Subject: RE: Operation Achilles Letter

Hi s 9(2)

This is a tricky issue from our perspective.

s 9(2)(a) see's both sides of the case.

Here is my view.

I think s 9(2) needs to be comfortable with the decision we make.

While we have confidence that we will get home on the s 9(2)(h) this will leave poor relationships.

A decision to prosecute will cause relationship issues going forward.

However a decision to not prosecute could be equally damaging from a public perspective.

I also don't think that offenders should benefit from illegal activity.

Does this leave us a middle ground?

I don't know the pragmatics of this due to Ace availability and or deem value consequences.
Also how do we get any degree of certainty that behaviours have or will change unless we prosecute

My thinking would be if the entities/ or holders of ACE who Fish to the defendants are willing to shelf ACE to the equivalent of what was illegally taken they have not in theory profited from this illegal activity.
The defendants or the ACE providers then advise us as to what practices have been put in place to address the issues uncovered.

If these two issues are undertaken to our satisfaction then we officially warn with a strong letter that if any further offences come to light then this practice will be introduced under propensity.

I guess if we can't do this or they are unwilling to accept this approach then we prosecute.

Tell me your thoughts

From: s 9(2)(a)
Sent: Friday, 20 June 2014 4:25 p.m.
To: s 9(2)(a)
Subject: FW: Operation Achilles Letter

Hi s 9(2) ,

s 9(2)(h)

There are issues here also re our F/M team and goodwill (or lack thereof) in pursuing these matters and I wonder if you need to discuss with s 9(2) first? I will be in Dunedin on Monday and Tuesday next week and will bring this up with s 9(2)(a) and F/M accordingly. There are some sensitivities here but we need to deal with offending as detected.

The only viable outcomes here are prosecution or warnings. Can you have a think about this and discuss accordingly. We can discuss once we've socialised this further to consider the best outcome.

Regards

s 9(2)(a)

From: s 9(2)(a)
Sent: Friday, 20 June 2014 4:01 p.m.
To: s 9(2)(a)
Subject: FW: Operation Archilles Letter

FYI ☺

s 9(2)(h)

From: s 9(2)(a)
Sent: Thursday, 14 November 2013 3:09 p.m.
To: s 9(2)(a)
Subject: RE: ELE- et al-MPI investigation

Hi s 9(2)

Firstly, my apologies for not getting back to you sooner I have been away from the office for the past 3 days.

Thank you for your email regarding this matter. I am presuming that you are making reference to an internal memo that I sent to my regional manager which has unfortunately found its way into the wider arena.

The memo in question is a preliminary investigation report which, is primarily an opinion (and recommendations) on my part as to the findings and likely direction that I believed the investigation should take. Any decisions on prosecution are not made at my level but are ultimately made after appropriate deliberation once the file is completed and reviewed by compliance management and our legal section.

As to the current stat of the investigation, I can tell you that I have completed all interviews of skippers/crew/permit holders and that no decision has been made (or recommendations given on my part) or will be made regarding prosecution until all inquiries have been completed and the file reviewed. These inquiries also include the issues that you rightly pointed out in relation to any assurance given by MPI etc and other matters. All of which will be duly disclosed if this matter were to proceed to prosecution. Once I have completed my enquiries I will forward the file along with any recommendations for review. I am hoping to have the file ready for review within the next few weeks.

I do appreciate your assistance and cooperation during the interviews over the past few weeks the result of which have highlighted the complexities and many issues that surround this matter further emphasising the necessity of careful and proper review of the all the relevant issues.

I have CC'd s 9(2) into this email and will be seeking his advice where necessary, I will endeavour to keep you informed as best I can in regards to any issues that may arise.

Regards

s 9(2)(a) | Investigator, Southern Team
Compliance and Response | South Island Investigations
Ministry for Primary Industries | 69 Nazareth Avenue, Middleton | PO Box 8324 | Christchurch | New Zealand
Telephone: s 9(2)(a) | Facsimile s 9(2)(a) | Mobile: s 9(2)(a) | Web: www.mpi.govt.nz

Ministry for Primary Industries
Manatū Ahu Matua



From: s 9(2)(a)
Sent: Tuesday, 12 November 2013 10:24 a.m.
To: s 9(2)(a)
Subject: ELE- et al-MPI investigation

Good Morning s 9(2) ,

I refer to my email yesterday.

I would like to advance this matter, and the wider issues that arise from the matters I have raised in my email.

You need to be aware I have a call in to s 9(2)(a) on a counsel to counsel basis to discuss the implications of the matters raised and the overall integrity of the investigation and MPI's involvement in it.

Thank you

s 9(2)(a)
[Redacted]
[Redacted]
[Redacted]
[Redacted]

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From: s 9(2)(a)
Sent: Monday, 11 November 2013 9:37 a.m.
To: s 9(2)(a)
Subject: ELE investigations-Timaru Fishers

Good Morning s 9(2) ,

I am reviewing progress on the file and the investigative process.

It has come to my attention that essentially a decision was taken that a prosecution should be taken as early as the 26 July 2013.

I had thought during the interview process there was an open mind on the issue and you were evidence gathering- but clearly the compliance mindset at that stage was prosecution.

I am also now aware that you have within your frame work of knowledge that certain assurances may have been given about non-prosecution if problems arose out the camera footage.

Naturally if you hold this information it should properly be disclosed, and i would expect you to have interviewed those persons who provided the suggestion of immunity.

Essentially, the issue arises of an officially sanctioned activity by MPI- and how the various fishers progress from here with the case and the information available very much depends on your response.

If the evidence goes that far, then MPI itself is hardly a neutral party in this entire matter.

I raise concerns too about the rather widespread knowledge of what is alleged to have occurred on a number of vessels and the dissemination of information to third parties. It appears that the knowledge of the investigation is widespread- and one can only speculate as to when details hit the media.

I look forward to your advice. Naturally the matter is of some importance not only in this case, but has wider implications about information security within MPI.

Thank You

s 9(2)(a)

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From: s 9(2)(a)
Sent: Tuesday, 4 December 2012 1:27 p.m.
To: s 9(2)(a)
Cc: s 9(2)(a)
Subject: Timaru set net fleet

Hi s 9(2)(a)

As per our previous phone conversations around the Timaru set net fleet and ongoing observer deployment across the fleet, I am just confirming the status of Observer coverage and Electronic monitoring with relation to the Timaru set net fleet.

As agreed in the initial planning stages of this project, we have been progressing observer coverage along these lines.

Objectives

1. To gather information to estimate overall mortality/mortality rate of Hector's dolphins [and other protected species] in set net fisheries on the East Coast of the South Island;
2. to test the feasibility and quantify the effectiveness of electronic monitoring in gathering this information; and
3. to test protocols, frameworks and infrastructure necessary for the delivery of electronic monitoring.

Electronic monitoring will be used in set net fisheries in the same statistical areas on the East Coast of the South Island where observer coverage is currently planned for 2012/13. This will help increase the cost-effectiveness of monitoring resources planned to be deployed in these fisheries.

This pilot project focuses on statistical area 022 (Canterbury Bight/Timaru). The pilot project will last one year [or six months] depending on the set net season and how long the participants continue to use this fishing method. Ideally, all vessels will operate electronic monitoring throughout the year and will also carry observers for 60-70% of fishing days during the period October to March to allow comparisons between both forms of monitoring.

Specifically and primarily we require observer coverage to estimate mortality rate of Hector's dolphins, and we require enough observer coverage to get sufficient data to produce a robust estimate that will support the development of a Threat Management Plan for Hector's Dolphins. This is an MPI priority!

The cameras are a trial only and are being deployed in Timaru due to the fact that we have the observer program operating out of this port. We need observer and camera coverage together to test the effectiveness of electronic monitoring being capable of monitoring protected species interactions. The primary use of the camera data will be to test efficacy of electronic monitoring as an observing tool. If this is successful then electronic monitoring data will be able to contribute to that estimate of dolphin mortality rate.

The table below lists the vessels that are within the scope of the current Inshore Observer Programme and fishing within Stat area O22 and the form of monitoring they have been subject to-date. Observer placement in some cases is limited by SSM issues around crew numbers.

Vessel	SSM	Crew	Company	LFR Number	Port	Observer Days until 29/11/2012	Observer Days until 31/10/2012	S u 3
§ 9(2)(b)	2	2	§ 9(2)(b)(ii)	§ 9(2)(b)(ii)	Timaru	0	0	
§ 9(2)(b)(ii)	3	2	§ 9(2)(b)(ii)	§ 9(2)(b)(ii)	Oamaru	0	0	
§ 9(2)(b)(ii)	2	2	§ 9(2)(b)(ii)	§ 9(2)(b)(ii)	Timaru	0	0	
§ 9(2)(b)(ii)	2	2	§ 9(2)(b)(ii)	§ 9(2)(b)(ii)	Moeraki	0	0	
§ 9(2)(b)	3	2	§ 9(2)(b)(ii)	§ 9(2)(b)(ii)	Timaru	15	2	
§ 9(2)(b)	2	2	§ 9(2)(b)(ii)	§ 9(2)(b)(ii)	Timaru	0	0	
§ 9(2)(b)(ii)	2	2	§ 9(2)(b)	§ 9(2)(b)(ii)	Timaru	9	9	
§ 9(2)(b)	2	1	§ 9(2)(b)	§ 9(2)(b)(ii)	Timaru	0	0	
§ 9(2)(b)(ii)	2	2	§ 9(2)(b)	§ 9(2)(b)(ii)	Timaru	17	16	
§ 9(2)(b)(ii)	2	2	§ 9(2)(b)	§ 9(2)(b)(ii)	Timaru	(2) Trawl	0	
§ 9(2)(b)(ii)	4	4	§ 9(2)(b)	§ 9(2)(b)(ii)	Timaru	0	0	
§ 9(2)(b)(ii)	1	1	§ 9(2)(b)	§ 9(2)(b)(ii)	Timaru	0	0	
§ 9(2)(b)(ii)	5		§ 9(2)(b)	§ 9(2)(b)(ii)	Timaru	0	0	
EM						41	27	

As previously discussed happy to talk about this further and clarify any areas of concern that you may have. Generally we are getting good co-operation from all the skippers involved and we hope to hold an information meeting in relation to our progress in this EM trial and the observer programme before Christmas in Timaru

Regards

§ 9(2)(a) | Fisheries Analyst, Inshore Fisheries Team
 | Resource Management and Programmes
 Ministry for Primary Industries | 73 Otaki Street | Private Bag 1926 | Dunedin 9054
 Telephone § 9(2)(a) | Facsimile § 9(2)(a) | Web: www.mpi.govt.nz

From: s 9(2)(a)
Sent: Tuesday, 30 October 2012 11:01 a.m.
To: s 9(2)(a)
Subject: RE: Electronic Monitoring Archipelago Marine Research

Hi s 9(2)

A bit of an update:

The cameras were released from CHC airport late yesterday afternoon (issues around the paperwork!)

The technicians are now in Timaru they have stashed the gear at s 9(2)(b) as the depot was open last night and s 9(2) has given them an office. I have told them to touch base with you as well !

As the s 9(2)(b)(ii) is on the slip the guys are going to attempt to fit out this vessel first ... hopefully s 9(2)(a) is a little more confident about the project ... as the Wharf gossip has been rampant in relation to why the cameras' are on board ... I gave s 9(2) the reasons we were trialling this technology and then made it clear that we were only leasing the cameras for the duration of the trial and that they would come off at the end of the set net season.

The Technicians have the following instructions about talking to anyone .. but of course the skippers can say what they like about what is going on with their vessels

Release of Data

- ***All incidences of Non-Fish By-Catch should remain confidential and should only be released to MPI or Archipelago shore staff. There should be no information or data released to outside parties: this includes to Observers. It is vital to the integrity of the programme that no gossip or rumours are spread. If you are working on multiple vessels do not discuss fishing activity or captures with other skippers. All the skippers know each other and will discuss these things if they want to. Some of the skippers have requested you do not talk to other skippers about their operations/captures as incorrect information has circulated previously by this method. Remember, the information you are collecting is commercially sensitive and private to the individual skipper and his operation.***
- ***If you are approached by members of the public regarding the installation of cameras onboard fishing vessels you can give them a very basic rundown of the intent of the program:***
 1. ***We are running a trial to monitor fishing activity.***
 2. ***No further details about the program should be released and no mention of interest in marine mammal or seabird interactions should be made.***
- ***If the skipper wants to give more information then that is up to them.***

Media and public enquiries:

It is highly likely that media will approach you regarding this coverage. Due to the sensitive nature and high level of public interest in this coverage we ask that you make NO comment to the media under any circumstance. Refer them on to s 9(2)(a), Senior Adviser for External Communications, Ministry for Primary Industries, s 9(2)(a)

Regards

s 9(2)

(a)

| Fisheries Analyst, Inshore Fisheries Team

| Resource Management and Programmes

Ministry for Primary Industries | 73 Otaki Street | Private Bag 1926 | Dunedin 9054

Telephone: s 9(2)(a) | Facsimile: s 9(2)(a) | Web: www.mpi.govt.nz

[Not relevant to review]

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Independent Review of Fisheries Prosecution Decisions

From: s 9(2)(a)
Sent: Thursday, 25 October 2012 7:55 a.m.
To: s 9(2)(a)
Subject: EM update

Hi s 9(2)(a)

Have managed to get 6 vessels to agree to the fitting of cameras but had to call on the QH especially s 9(2)(b)(ii) as although they had said yes or maybe.... generally they were not keen and a bit arsey about it so Might need some help with getting logistics sorted next week with installation as the guys may still make it difficult.

So at this stage it is

s 9(2)(b)

s 9(2)(b) (need to talk to s 9(2) to check s 9(2)(b)(ii) plans) s 9(2)(b)(ii) And poss s 9(2)(b)(ii) need to talk to s 9(2)(a) directly Don't have all the questionares sorted but have a reasonable summary and photos where I could I was a bit optimistic

Regards

s 9(2)

Proactive Release – 16 September 2016
Independent Review of Fisheries Prosecution Decisions