

CAUGHT OFF GUARD

By Carroll Cox, EnviroWatch

Was the United States Coast Guard (USCG) “caught off guard” by Department of Land and Natural Resources (DLNR) Chairperson Laura Thielen, USCG Commander Mark S. Young, USCG Captain Barry Campagnoni, and others, during Thielen’s recruitment and hiring of Commander Young for DLNR’S vacant position of Conservation and Resources Enforcement Administrator (CREA)? Shortly after my article discussing the hiring of Commander Young (among other issues) was published in *Hawaii Fishing News* (Feb. 2010), Thielen wrote a letter to the DLNR staff saying:

“to provide you with the official start date for Mark Young as DOCARE Chief, explain why it has taken this long for me to provide you with a firm date, and why this selection is the right choice for DOCARE despite the timetable. Commander Young will start as the DOCARE Chief on June 01, 2010. In the meantime, he will continue to work with DOCARE under the Memorandum of Agreement between (MOA) DLNR and USCG. He is detailed to us on a part time basis at no cost to DLNR to assist in areas of mutual interest, including the CALEA accreditation. I haven’t provided you with a start date until now because we hoped Commander Young could start sooner. However, each option required review and analysis by the USCG chain of command up to D.C. No disrespect to the Coast Guard, But if you think it takes a long time to go through state review, going through the federal process is a whole different experience.

“USCG national policy states if you accept an increase in command, you are required to complete your term. Mark was promoted to commander of the USCG 14th District Enforcement for a term that ends July 1, 2010.

“We originally requested approval for Commander Young to work with at DOCARE on a part-time basis. While our state laws and ethics rules permit second jobs, it was not permissible under Coast Guard policies. We then proposed he work on a volunteer basis which is also permissible under our state laws and policies. Again, the USCG policies didn’t permit that either. We then proposed he start with us once he went on terminal leave in early spring. We just received word from USCG that isn’t feasible either. However USCG is now authorizing Commander Young to retire effective May 31, 2010, which he is doing (and which you should know is coming at a financial cost to his family).

“When I introduced him at the DOCARE meeting last summer as incoming Chief, I gave some highlights of his experience, but many of you weren’t in the room that day, so let me share a few.

“In the short time he’s been with us under the MOA, his work has validated the basis for my selection. He has:

- Assisted in reaching a new JEA with NOAA that focuses on our priorities and has about doubled their funding to DOCARE;

- Is currently engaged in similar updates to the Recreational Boating Safety MOU between DLNR and the Coast Guard;
- Worked with the CALEA team to develop and submit the detailed CALEA application and agency profile required to initiate that accreditation process; and
- Worked with Kevin and Patti to submit an initial application to Castle Foundation for three-year financial support of accreditation. Castle Foundation has now given us a formal invitation to submit a full grant application, which Mark, Kevin and Patti are finalizing now.

“Commander Young has the essential combination of strategic vision and administrative skills. He also has the love for resource enforcement that I cherish in so many of you.

“We’ve had the opportunity for Commander Young to join us in Maui during some hearings; he’s recently joined the selection teams for the DOCARE Branch Managers and District Superintendents on Maui, Big Island, Kauai and Oahu. For those of you who haven’t had the chance to meet him yet, I encourage you to do so. He is on the Lotus Notes system (Mark S. Young). He is in the office weekly and will be ramping up his time with us under the MOA as we move towards his formal start date”.

So, “officially” Commander Young will not start working for the state until June 1, 2010. This is over one year from the date this “critical” position (see comment by Thielen later in article) was posted for hiring. However, he is currently working “at” DLNR and performing many of the duties of Enforcement Administrator. Based on the above description of work, he is more than just a liaison between the USCG and DLNR. And, it looks like Young’s salary to work for the State of Hawaii is being paid for by the Coast Guard! So, when does he have time to fulfill his duties to the Coast Guard? What kind of flimflam or slight of hand, is being presented here?

To get answers, and a clearer understanding of how and why Thielen chose Commander Mark S. Young for the position, I filed a request for public records under the Uniform Information Practices Act or “Sunshine Law”. To obtain the records, Thielen originally quoted a whopping price of \$123 for 45 pages. After I requested a waiver, Thielen offered to reduce the charge to “only” \$43.50. Ouch! Talk about “throwing rocks”. She is still enjoying that cheap shot. I keep forgetting that knowledge is as good as gold, or as hard earned cash.

FOLLOW THE TRAIL

Following is what I was able to glean from the emails and other official documents provided by Thielen:

On March 30, 2009 at approximately 6:51 pm, United States Coast Guard Captain Campagnoni wrote an email to Thielen saying: “Thanks... I know of a couple highly qualified candidates who may be interested. I’ll let them know. “

On the same date, at approximately 9:12 pm, Thielen wrote to Campagnoni saying: “We’re advertising and recruiting for a replacement right now. If you know anyone who is interested, please encourage

them to apply. Gary's Deputy is acting Chief, but will be retiring himself in 2 months. We are classifying the position as hard to fill, so it won't effect retirement benefits for someone coming from the state or county level. Not sure about the federal".

What prompted these particular emails regarding recruitment? Thielen and Campagnoni may have a more plausible explanation, but based on the content of these two emails, it is illogical that Campagnoni would, out of the blue with no explanation, write to Thielen to thank her and let her know that he knows people and will nominate them. Her email, 2 hours and 21 minutes later, tells him that position is open and they are advertising. Looks like there are missing emails, but she did not tell me she was withholding them. What is Thielen hiding by not releasing prior emails?

On April 8, 2009, Thielen wrote another letter to Campagnoni, and to heads of other agencies stating: "We are currently seeking applicants for the position of Division Administrator for the Department of Land and Natural Resources, Division of Conservation and Resources Enforcement." It seems a bit illogical that Thielen would be writing again to Campagnoni to inform him about a topic the two of them had been discussing more than a week earlier. It appears Thielen only wrote to the other agency heads to cover her tracks.

On June 12, 2009, personnel Officer J. Holly Leong emailed Thielen stating: "While we are working out the MOA (Memorandum of Agreement) for the detail, you can return the list indicating that you interviewed the applicants on whatever date and who your selection is. You can also list your 2nd and 3rd choice, if any. If you don't have a 2nd or 3rd choice, that's fine – not necessary to indicate. If CG selection falls through, we can ask for a new list and there may be additional names." Why would the personnel officer be working on an MOA (for a liaison between USCG and DLNR) while knowing that Commander Mark S. Young had been selected for the permanent position? It appears that this is the first overt act to deceive United States Coast Guard Command in "D.C" as to what was actually occurring with the hiring of Commander Young, who is under obligation to the Coast Guard until he is eligible for retirement on June 1, 2010. Were Thielen, Captain Campagnoni and others are trying to circumvent The Posse Comitatus Act, and state labor laws, so that Commander Young could start his job right away?

On June 21, 2009, Thielen emailed Staff members in the Human Resource Division stating: "No second or third choice. Right now the USCG is looking into whether he can be employed by us while he's still with them. On our end it's OK, I spoke with Dan Mollway at the Ethics Commission. So he could start part time right away if it's OK with USCG. By the way, do you know if he could work for us in the position at no pay? That might be an issue for them, not us."

On June 26, 2009, Thielen emailed DLNR Deputy Russell Tsujii and others stating: "Commander Young has received and accepted a qualified offer. I am holding off negotiating his salary until I get the green light from his employer.

"I'm going to separately send you an email and cc the USCG people you need to call next week. They are doing final research on whether he can take a second job with DLNR as our Enforcement Chief while he's working for the USCG. So far it's looking pretty good. I'll call Mark and negotiate a salary and start date. He will work part time beginning as soon as we can get him into the seat.

“All this is confidential until we get approval from his commanders. Everyone in DOCARE knows because they gossip. But nothing is coming from the Chair’s office until it’s final.”

On June 26, 2009, Thielen emailed USCG Captains Barry Campagnoni and Steve Mehling, stating: “Russell Tsujii, our Deputy Director, will be the primary contact while I’m gone. If you need any further information regarding the DOCARE Chief position or anything else to complete your analysis, please don’t hesitate to contact him. I spoke with Captain Steve Mehling today, and I understand that one big hurdle is a federal law that prohibits a military person from holding an elected or appointed job. Could their concerns involve the Posee Comitatus Act. The DOCARE Chief position is a state civil service position that is selected through civil service competitive hiring. So that should not be a problem. Steve told me you guys are working through some final details and may have something firm by end of next week.”

As I said in my earlier article, this shows us the “I am Laura Thielen and the heck with you and the law, my way or the highway” mentality.

On August 9, 2009, Thielen emailed DLNR personnel officers stating: “see attached approval. Finalize all paperwork. A request for approval of appointment above the minimum pay rate was submitted for Mark S. Young and approved July 09, 2009.”

MORE FISHY STUFF

The original position for Enforcement Administrator was opened for recruitment on March 23, 2009, and the last day to apply was April 3, 2009. The Position Announcement stated: “To be eligible applicants must be State Civil Service members in the Department of Land and Natural Resources.” Why then was Thielen communicating with USCG Captain Campagnoni on March 30, 2009, or earlier? I was informed by the State Department of Human Resources Development (DHRD) office that Captain Mark S. Young submitted an early application dated April 15, 2009. Yet, Thielen only provided me with an application filed by Commander Young that was dated August 11, 2009, but not submitted to the Human Resources Development Office until October 6, 2009. When I asked DLNR Personnel Officer Shauna Tsuha, why Thielen did not release Young’s April 15, 2009, application, Tsuha told me that DHRD only provided the personnel office with a certificate declaring that Young had met the minimum qualifications and the DHRD kept Young’s application. The selected candidate then files a new application after he or she has been selected for the job. Based on this logic, how does an interviewing panel know a candidate’s background if they do not have an application? Only after I told Tsuha she was not telling the truth and DHRD assured me that they did provide the personnel office with a copy of Young’s April 15, 2009, application, did Tsuha retract her original statement and claimed she would look for the original application.

I returned to Thielen’s office and complained that she withheld the April 15, 2009, application to conceal its existence. Thielen’s assistant told me that the Attorney General’s office will be reviewing the application to see if it can be released.

Basically it appears that Thielen and Commander Young's Coast Guard clique set out to mischaracterize Young's role as "liaison to DLNR" while knowing first hand that Commander Young was serving on active duty and had a legal and binding contractual agreement with the United States Government. USCG Captain Barry Compagnoni and the USCG higher command misrepresented and drew up a MOA to reflect a liaison position, never mentioning that Young had been recruited and hired for a permanent job. All this was done after-the-fact to conceal from the public that the hiring of Commander Young was not entirely legal or ethical. Not only that, the MOA is very loose. For example, take Point 6 – "No follow-up reports or documentation of action is/are required: however, it is anticipated that this collaborative effort will result in MOU's, protocols, and the like between the agencies".

It is my opinion that the documents and emails suggest that Young was preselected and was favored to be the selectee for the Conservation and Resources Enforcement Administrator regardless of any rules, policies, or the Posse Comitatus Act. The Memorandum of Agreement was nothing more than flimflam on the part of Thielen, her staff, the United States Coast Guard Captain Barry Campagnoni, Commander Mark Young, Captain Mehling, and others, to cover up problems with the hiring, and to defraud the citizens of this state and the United States Coast Guard Command. The MOA states "Purpose: This Memorandum of Agreement(MOA) defines the terms and conditions by which a Coast Guard Liaison will be detailed to the Department of Land and Natural Resources (DLNR), state of Hawaii, to improve the interoperability between the Coast Guard and the DLNR." Nothing is mentioned in the agreement about Mark S. Young competing and accepting the job as the Conservation and Resources Enforcement Administrator. Yet his superiors knew that he was referred to the position, was working part time, and authorized part time work that allowed him to accept an office, have access to civilian sensitive information, attend union meetings, conduct interviews to fill vacant positions in DOCARE, and perform other administrative tasks relating to civilian matters. Assuming Young's work at DOCARE was or is legal, a large portion of his work at DOCARE occurred prior to the MOA's existence. The final signatures and approval didn't occur until August 25, 2009. You can see a copy of the MOA and other related documents at carrollcox.com

Thielen clearly acknowledged that resources would be severely impacted if the position was left vacant for any length of time. She actually told Marie Laderta, the Director of the Department of Human Resources Development, in a letter dated March 17, 2009: "To be able to recruit the best and the brightest, we must be able to offer the best competitive salary. This will enable us to fill the position as quickly as possible and will lessen any negative impact on the public and the visitors who use our resources. Leaving the position vacant for any length of time leaves the State vulnerable to legal liability should the lack of leadership impact enforcement activities. Natural resources will be overused and/or depleted without the proper enforcement of conservation laws, rules and regulations established to protect these resources".

I'll let you draw your own conclusion whether or not the filling of the position with Commander Mark S. Young was free of politics and special treatment. I'm reminded that The United States Coast Guard is part of Homeland Security and shares in the protection of our nation. Is the behavior of the United States Coast Guard personnel passing the smell test? Something fishy has taken place here and the Coast Guard dropped their guards on this one.

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