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Maine Lobstermen's Community Alliance

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MLA WINS EXPEDITED REVIEW OF WHALE RULES
Former U.S. Solicitor General joins MLA's legal team

By MLA staff

A federal appeals court has sided with the Maine Lobstermen’s Association (MLA) in granting its request to expedite consideration of its appeal. The Court rarely grants motions to expedite. In granting the motion for expedited appeal, the court laid out a timeline that requires all briefs to be submitted by January 10, 2023.

This decision came just a week after the MLA announced it has expanded its legal team and retained former U.S. Solicitor General Paul Clement to represent it in its appeal to the D.C. District Court of Appeals in its court case against the National Marine Fisheries Service (NMFS) (Maine Lobstermen’s Association v. National Marine Fisheries Service) to reverse a scientifically flawed federal whale plan that will cripple Maine’s lobster industry. The request for expedited appeal comes in response to District Court Judge James Boasberg’s ruling against the association in September.

"We are pleased that the appeals court understands the urgency of hearing our argument that National Marine Fisheries Service has abused its discretion and that its current whale plan will not only destroy our industry and our livelihoods, but also won’t recover the right whale," said Patrice McCarron, executive director of the MLA.

Clement served as U.S. solicitor general and is widely recognized as a leading Supreme Court advocate, focusing on appellate matters and constitutional litigation. He has argued more than 100 cases before the Supreme Court including several of the highest-profile cases of the past decade.

"When we said we refuse to let a single judge’s decision be the last word and that MLA is preparing to go all the way to the Supreme Court, we weren’t kidding," said MLA president Kristan Porter. "We are incredibly grateful that Paul Clement, arguably the most qualified attorney in the nation on these matters, has chosen to stand with us. Paul has looked at the facts and agrees with what we have been saying all along — NMFS abused its discretion. Maine lobstermen are not driving the right whale toward extinction, but we are being punished by unsound federal rules that will wreck this industry but won’t recover the whale."

In September 2021, MLA filed its lawsuit challenging the federal government’s fundamentally flawed 10-year whale protection plan mandating a 98% risk reduction.
What does the future hold? No one knows for sure. What we do know is that events happening right now will influence what the Maine lobster fishery will look like in the future, if it exists at all.

The Maine Lobstermen's Association (MLA) knows that the measures taken by the National Marine Fisheries Service (NMFS) to protect right whales are fundamentally flawed and must not be permitted to decimate a centuries-old fishery, one recognized throughout the world as sustainable and the foundation of the state's coastal economy.

To ensure a future for Maine lobstermen, in October the MLA retained former U.S. Solicitor General Paul Clement to represent it in its appeal to the D.C. District Court of Appeals of Judge Boasberg’s September ruling. Clement served as U.S. Solicitor General from 2001-2008 under George W. Bush. He is widely recognized as a leading Supreme Court advocate, focusing on appellate matters and constitutional litigation and has argued more than 100 cases before the Supreme Court.

The stature of Mr. Clement reflects the significance of the MLA’s court case. “This is a clear case of government overreach. It is an exegamation to say that the fate of the Maine lobster fishery, a national icon, hangs in the balance,” said Paul Clement. The Court has set an expedited schedule to hear the MLA’s appeal.

To provide much-needed financial support for the MLA’s legal efforts businesses and individuals throughout the state have stepped up to donate to the Save Maine Lobsterman campaign. From youngsters in Jonesport to lobstermen in Portland, Maine people are making sure that the MLA has the ammunition it needs to take its appeal all the way to the Supreme Court if necessary. Whether the donation is large or small, every dime goes to the legal fight against NMFS’s flawed measures.

“What is the injustice of the whole thing,” Richard Black, a Portland lobsterman, said. “There’s no data against us and tons on ship strikes. Why are these people running over the top of us?”

Reflecting on the future of the Maine lobster fishery inevitably leads to thoughts about its past. Robin Alden, founder and former publisher of Commercial Fisheries News and former Department of Marine Resources Commissioner, considers the changes that she has seen in the past fifty years in this month’s issue. Fifty years ago most vessels were made of wood, wire traps were just coming in, and lobstermen had the flexibility to move among different fisheries based on the season. “As the lobster fishery fights for its existence confronted with new whale rules, declining catches and stunning costs, looking back with that 50-year perspective can help clarify what is deeply important about lobstering and the strengths fishermen possess to meet a time of such profound change,” Alden wrote.

While lobstermen are addressing the possibility of stringent reductions in their ability to fish next year, the federal Bureau of Offshore Energy Management (BOEM) is moving forward rapidly to begin leasing parts of the Gulf of Maine for wind energy development. As part of the Biden administration’s effort to increase U.S. wind energy production, BOEM announced a Request for Interest in Gulf of Maine leasing in August. Numerous fishing organizations, environmental groups and individual fishermen formally protested the speed with which the agency was moving and the impact such leases could have on endangered right whales. The members of the Governor’s Offshore Wind Road Map Fisheries Working Group wrote in opposition to BOEM’s haste. “Considering the importance of the Gulf of Maine as an ecosystem and economic driver within the blue economy, the speed at which the BOEM process is moving forward is disturbing and unnecessary,” the group commented.

Knowing where you are is fundamental to success as a fisherman. But how one determines location at sea has changed greatly over the centuries, as our article on the Osher Map Library and Smith Center for Cartographic Education at the University of Southern Maine explains. The Library holds multiple collections of historic charts, maps, globes and other materials, dating from the 1400’s onward. The charts highlight evolving views of the world’s oceans and coastal areas, from the days of sea serpents and dragons to 20th century charts of impeccable precision.

Landings also looks at the importance of sleep to fishermen. Lack of consistent and deep sleep leads to many health issues as well as injuries at sea. Finding ways to assure regular sleep among fishermen is a challenge, one that the Northeast Center for Occupational Health and Safety in addressing in a two-year study. Although lack of sleep may be something that is generally accepted in fisheries circles, sleep plays a very important role in overall health, cognitive functioning and mental health, according to Julie Sorensen, director of the New York Center for Agricultural Medicine and Health at the Northeast Center.

Finally, the holiday season is upon us and with it comes an array of cheerful events along the coast. From lobster trap tree lightings to Santa Claus arriving by lobster boat, coastal communities will be enthusiastically welcoming the holidays as they have for many years past. We hope you find time to enjoy some of these hallmarks of the season.

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**Coastal Outlook**

Thoughts from MLA President Patrice McCarron

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**Maine Lobstermen’s Community Alliance**

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MLCalliance is a 501 (c) (3) non-profit organization, established in 2010, which achieves its charitable mission through programs in education, research and charity.

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GUEST COLUMN: A 50-year perspective on the Maine lobster fishery

By Robin Alden

I have been looking back at what fishing was like in 1973, the year I founded Commercial Fisheries News. The differences are stunning, even to someone like me who reported on those changes, sold ads for the new gear, was part of creating the new lobster laws in the 1990s, and tried to connect fishermen so that they could contribute to better science and better rules.

As the lobster fishery fights for its existence confronted with new whale rules, declining catches and stunning costs, looking back with that 50-year perspective can help clarify what is deeply important about lobstering and the strengths fishermen possess to meet a time of such profound change.

Fifty years ago, lobstermen were fishermen. If a lobsterman wanted to make more money than he could by lobstering, he could go tub trawling, gillnetting or dragging for groundfish, scallops and shrimp. There was strong interest to catch in stop seines, clams to dig, and mussels once DMR developed a market in the 1970s. Maine offered only three license types: lobster, commercial fishing, and commercial shellfishing. All were open entry.

Fishermen gained a lot of knowledge from having that versatility. Observations of a fisherman working in one fishery in an area gave him useful knowledge about other fisheries. Fifty years ago, technology hadn’t overwhelmed the skill that comes from direct observation and a good memory, the skill, for example, of finding your traps in a fog mull without radar, Loran, GPS, or Olex sonar. Just a compass, running time, your flasher, and alertness: sound, smell, bird activity, the feel of the tide and the sea.

Fifty years ago more than half the new lobster boats were wood, virtually all in the 30-36’ range. There were only a few new fiberglass models on the market: Repco 30 and 37, and one hull each from Webber Cove, Jarvis Newman, and Bruno and Stillman. Most new lobster boats had gas engines, diesels only if the owner planned to do other fisheries too. Traps were wood, mostly built or repaired in the shop each winter; heads were knit at home. Buoys were transited between wood and Spongex. The first Friendship Trap ad for wire traps showed up in Commercial Fisheries News in 1977.

The Coast Guard was going town-to-town in 1973, introducing the new Lorcan technology. Only draggers had used Loran A at the time, so initially the change didn’t mean much to lobstermen, whose only electronics was a flasher and for some, a CB radio.

Today’s fleet of lobster boats may look quaint to a tourist but there has been a technological explosion in the last 50 years. Contrast the boats of the 1970s with today’s wide, able 40-50’ boats, complete with trap racks and 600-800+ hp clean diesels, with radar, GPS, sonars, radio, cell phone and even computers aboard, fishing 800 wire traps delivered completely from the factory.

The fishery

There has also been an explosion of lobster. Today’s Maine lobster fishery is catching more than six times the poundage being caught 50 years ago, increasing from 17 million to 109 million pounds. Most lobstermen today have only fished when landings have been increasing. Why? Probably because of Maine’s good management which protects breeders and juveniles accompanied by climate-related changes in the Gulf. The price, until this year, has kept up with inflation so that, in real terms, the Maine lobster fishery is bringing in over six times the money to coastal towns than it was in 1971.

When has there ever been such a long run of good times in a fishery? Rules, laws and government

A third explosion occurred in government; the world of 50 years ago is unrecognizable today. The Maine Department of Marine Resources (DMR) was created in the early 1970s out of the Department of Sea and Shore Fisheries. DMR was given rule-making power. Before that, fisheries rules seldom changed because virtually any changes had to go through the state legislature. At the federal level, the Clean Air Act, the Clean Water Act, the Marine Mammal Protection Act, and the Endangered Species Act were all passed in the first four years of the 1970s. The Maine-New Hampshire border hadn’t been settled and it was almost 15 years before the US-Canadian boundary line went into effect.

There were 200-250 foreign vessels fishing in the Gulf of Maine and on Georges Bank every month, including factory trawlers, purse seiners, mid-water trawlers.

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Robin Alden is the founder of Commercial Fisheries News, former DMR Commissioner, and co-founder of the Center for Coastal Fisheries. World Fisheries photo.
Anger about the Monterey Aquarium Seafood Watch's ill-informed listing of American lobster as a "red list" seafood species coupled with frustration stemming from the National Marine Fisheries Service (NMFS) mandate of an immediate 90% reduction in entanglement risk to North Atlantic right whales has created an outpouring of support from throughout Maine for the Maine Lobstermen's Association (MLA) Save Maine Lobstermen campaign this fall.

"The Maine lobster industry has done everything it has been asked to do and more," said Debbie Gagnon, co-owner of Red's Eats in Wiscasset. "We're able to do what we do because they do what they do." Gagnon teamed up with the MLA to launch its fall fundraising challenge, urging all businesses that rely on a strong lobster industry to contribute to the Save Maine Lobstermen campaign.

Red's Eats itself contributed $2,500 to the campaign. Portland lobsterman Richard Black organized a lobster feed fundraiser in October at the Pizza Villa in Portland. "I was out hauling and the owner called up and asked 'what can we do about this nonsense'," Black said, referring to the Seafood Watch listing. "We decided to do a small clambake behind the restaurant and asked 'what can we do about this nonsense'," Black said, referring to the Seafood Watch listing. "My husband and two brothers-in-law are lobster fishermen, my father-in-law lobster fished, and our three nephews are all lobster fishermen," Smith said.

She and other members of the group organized "Supporting Our Heritage: Maine's Lobster," a September 26 rally on Beals. Jonesport school children set up a lobster roll and lemonade booth at the event. "It was after the red listing came out and we wanted to feel useful. People came to the rally from all around and the kids sold a lot of lobster rolls," she said. In the end the children's efforts resulted in a $1,198 donation to the Save Maine Lobstermen campaign.

Tony Esposito, owner of Dover Ford and Union Fair Auto Sales, dedicated one of his companies to raising $200 for every auto sold in October. Starting in November, Friend & Friend Powersports in Ellsworth will donate $100 for every new, adult-size unit sold. And Paul Hastings, owner of Mornings in Paris coffee shops in Kennebunk and Ogunquit, has brewed a special coffee blend, known as the #SaveMaineLobstermen Brew, and will donate $4 for every pound sold.

"We saw a lot of enthusiastic customers wearing red and eating lobster while contributing to your legal fund. We greatly appreciate all your association does for the lobster industry here in Maine," Sharon O'Brien, co-owner of the business, wrote with the donation.

Beals Island resident and lobsterman's wife Amanda Smith is a member of Downeast Housewives for the Fishing Industry, a tongue-in-cheek name for a dedicated group of wives and partners of lobstermen. "My husband and two brothers-in-law are lobster fishermen, my father-in-law lobster fished, and our three nephews are all lobster fishermen," Smith said.

The owners of Jess's Market in Rockland decided that they wanted to help as well. The market advertised to customers that it would donate 13% of all lobster sales, which included live, cooked, and meat bought in the store and online during one week in September. That week included Friday, September 23, when people throughout Maine wore red to show solidarity with lobsters.

In the end Jess's donated $2,144 to the campaign. The market advertised to customers that it would donate 13% of all lobster sales, which included live, cooked, and meat bought in the store and online during one week in September. That week included Friday, September 23, when people throughout Maine wore red to show solidarity with lobsters.

"It's the injustice of the whole thing," Black commented about NMFS's actions. "There's no data against us and tons on ship striking. Why are these people running over the top of us?"

Smith reflected on the anguish many lobstermen and their families are experiencing right now. "A lot of guys don't know what to do. They are facing the loss of everything they know and have put their hearts into," she said. "Trap companies are laying off and people are losing their jobs. A lot of lobstermen don't even have the words to use to describe how they feel."

Amanda Smith is a member of Downeast Housewives for the Fishing Industry, a tongue-in-cheek name for a dedicated group of wives and partners of lobstermen. "My husband and two brothers-in-law are lobster fishermen, my father-in-law lobster fished, and our three nephews are all lobster fishermen," Smith said.

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Friend & Friend Powersports in Ellsworth will donate $100 from every new, full-size unit sold through the end of the year to Save Maine Lobstermen!

Includes ATVs, side-by-sides, snowmobiles, and motorcycles.
ers and others. Fish stocks were depleted. A foreign captain complained that his town had dropped to only five to 25 tons. Maine lobstermen lobbied for a federal law to declare lobster a "Creature of the Continental Shelf" and led the first leg in a "sail-in" to Washington with other East Coast fishermen. After years of outcry, the Magnuson Fishery Conservation and Management Act went into effect in 1977, putting in a 200-mile limit that excluded foreign boats.

The new law also created the New England Fishery Management Council. The Council brought a type of management that had never existed before in New England: permit purchasing, individual transferrable quotas, quota leasing and consolidation. Over time, the approach virtually eliminated Maine's small-scale dragger, gillnet, and herring fleets, while allowing stocks of cod, haddock, and herring to plummet in the Gulf of Maine.

Lobstering avoided this fate as a result of dogged determination by the Maine Lobstermen's Association (MLA), led by Ed Blackmore of Stonington who was on the Council. He achieved wins that we take for granted now: protection for v-notch and oversize lobsters and limits on dragging for lobsters. Each was a multi-year battle. Especially critical, lobster management outside three miles was removed from the Council and its federal management approach and transferred to the Atlantic States Marine Fisheries Commission (ASMFC). Once in ASMFC, Maine state rules were extended to the Area 1 line. Along the way, the fishery added vents to traps and increased the minimum size of lobsters. Initially, many lobstermen vigorously opposed both measures.

In the mid-1990s Maine faced tremendous pressure to limit entry and put in a trap limit. Once again, with leadership from the MLA and many lobstermen, Maine went a different way. Entry was controlled through apprenticeship; owner-operator was put into law and Maine licenses couldn't be traded. The trap limit was set at 1200, to be gradually lowered to the current 800. Though many realized the number of traps was probably too large, at the time it was the lowest number that could pass the Maine State Legislature. Each Zone Council was given the right, which they have still today, to vote in a lower trap limit. Only Zone E has done so.

Looking ahead

50 years later, lobstermen now operate within a set of very complex rules. Gone is the anonymity of fishing without electronics, with new whale rules and track-ers continuing the trend. Few lobstermen today are also fishermen. They have virtually no options to diversify in federal waters. State water fisheries cannot match the opportunities of the boom lobster fishery of the last 25 years.

Now, after 50 years of good times, lobstermen are facing daunting debt and an uncertain future in the face of climate change. All that is terrifying. Making a living in a wild caught fishery is never guaranteed. This is the hard part of fish-ing, which some older fishermen remember well.

Thirty years ago, Maine lobstermen created and stood up for changes that have given them important resilience and a model for the future. They created something new in fishery management, based on what they wanted the business to look like. The result? Lobstering has prospered in communities the length of the Maine coast. Without this vision, the explosion of both lobsters and tech-nology over the last 50 years would have resulted in a consolidated, corporate lobster fishery based in a few big towns, with far fewer fishermen, working as employees, and our towns turned into tourist traps.

On top of all the rules that protect lobster's biology, lobstermen stood up for and got these other principles passed into law in the 1990s:

• Owner-operator is key to keeping lobstering in coastal communities.
• Apprentice-based entry to require a commitment to the business.
• Across-the-board traps limits to ensure skill, not your bank account, deter-mine how much you catch.
• No transferable licenses or traps to prevent consolidation and make it af-fordable for young people to start out.
• Lobster Management Zones to keep lobstering opportunities in local com-munities.
• Lobster Zone Councils to recognize area and fleet diversity and give lob-stermen a voice about issues in their area, which differ along the coast.

None of this was easy — 4 to 5000 independent people, their crews and fami-lies didn't, and won't ever, speak as one. But as all of us enter this new world of climate-related changes in the Gulf of Maine, it’s worthwhile acknowledging the creativity and leadership it took to get where we are.

The Gulf of Maine is a natural system, not just a place to steam over to go take lobster. Who can deny that our technology today has the ability to overwhelm any natural system? The problems don’t all come from the government; some-times they come from us. As the ocean changes, we will all need to learn and adapt as we go — fishermen, scientists, and government.

The lobster fishery has always shown it can lead with humility and creativity, as well as with power and anger. It can chart an ecologically and community-centered future for those of us who fish.
Maine Lobstermen’s Association

Advocating for a sustainable lobster resource and the fishermen and communities that depend on it since 1954.

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STEAMING AHEAD

Nothing is more infuriating than not being listened to. That is what happened in September when Washington D.C. District Court Judge Boasberg ruled in favor of the National Marine Fisheries Service (NMFS) in the MLA’s court case.

Judge Boasberg gave deference to NMFS, ruling that the agency had followed the proper administrative processes when creating its Biological Opinion and ten-year whale conservation plan. NMFS explained why it did what it did in creating a conservation plan that would largely erase the lobster fishery — and that, according to Judge Boasberg, is all the law requires.

I have to admit I was a bit shocked that there was any scenario in which the Court would not carefully examine MLA’s argument that the agency deliberately chose “worse case scenarios’ and ignored its own data in crafting the ten-year whale plan. Apparently, the Judge has no qualms empowering NMFS to eliminate the Maine lobster industry using a ‘crap in equals crap out” approach as long as it explains why it considers that the best available science.

Hell no! That just won’t do. The MLA made a sound and potentially precedent-setting argument in our court case and we were not heard. Instead of fixing a broken management process, the Judge’s ruling instead provides NMFS with a blank check to continue to disregard actual data in its regulation of a fishery that has zero documented right whale deaths.

Then, the day after Boasberg’s ruling, NMFS launched its rulemaking process to require the lobster fishery and every other fixed gear fishery from Maine to Florida to reduce estimated risk to right whales by 90%. Despite the fact that this regulatory change literally threatens to put many fishermen out of business, NMFS only provided a one-month public comment period.

A tsunami of bad news? Absolutely. Yet it is in these moments that you learn what you are made of. The MLA Board showed that clearly — they immediately kicked into high gear.

The MLA firmly believes that the entire foundation on which NMFS has built its whale plan is wrong. For years, NMFS has refused to listen to the MLA’s concerns, and now Judge Boasberg has done the same. The MLA knows that the lobster industry’s concerns over the whale plan are real and must be heard. So the Board did not hesitate to continue to push forward.

With strong guidance from our legal team, the MLA filed its notice to appeal Judge Boasberg’s decision within a week of his ruling. Less than a month later, we retained the services of Paul Clement, the country’s top appellate attorney and one of the nation’s most highly accomplished U.S. Supreme Court advocates. This was not a decision taken lightly.

Paul Clement has argued over 100 cases before the Supreme Court. In fact, since 2000 he has argued more Supreme Court cases than any lawyer in or out of government. He has initiated major administrative law challenges and constitutional litigation against the federal government. In short, he is the perfect lawyer to represent MLA through this next phase of litigation and allow the MLA to pursue its arguments all the way to the Supreme Court, if necessary.

Mr. Clement promptly filed a motion to expedite MLA’s appeal. The MLA staff put a lot of work into this request, submitting with our brief ten declarations from lobstermen and businesses to document the harm that the fishery is already experiencing as NMFS moves full steam ahead with a 90% risk reduction. On October 11, we got our reply. The Washington D.C. Appellate Court rarely grants motions to expedite but the MLA’s request was granted less than a week after submittal. We now are in an aggres sive timeline, with all briefings to be filed by all parties by January 10, 2023.

This is a high stakes game and it is painfully easy to second guess yourself. I want you know that at no time throughout this process, particularly after Judge Boasberg’s decision in September, did any member of the MLA board hesitate to continue our legal attack. The MLA case is solid. The entire foundation on which NMFS has built its whale plan is wrong, Judge Boasberg did not actually consider the substance of our claims. The Board will not back down until MLA’s case has been heard.

Retaining Mr. Clement means we have added substantial firepower to our legal team. When the MLA retained the services of Ryan Steen at Stoel Rives, we hired the best Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) attorney in the country. Without his leadership and forethought in strategically building MLA’s lawsuit against NMFS, we would not be in the position to pursue a successful appeal.

Steen will continue to serve as MLA’s ESA and MMPA expert as the appeal moves through the legal system.

Even with all the progress MLA has made over the past month, we have an anxious winter ahead of us. While the MLA appeals Judge Boasberg’s ruling, NMFS is pushing forward with its rulemaking to decimate the lobster industry through a 90% risk reduction. And yes, when this is done, they will come back to get us finally to the 98% risk reduction.

We are in a race against the clock as we seek justice for Maine’s lobstering families. That is why the MLA asked the Appeals Court to expedite the case. If we are successful with our appeal, MLA’s original case will go back to District Court to be heard. If we are not successful in our appeal we will take it to the Supreme Court so that our original case can be heard. A proper hearing of MLA’s case will force NMFS to fix the science and develop a risk reduction goal that matches the risk posed by the Maine lobster fishery.

I am grateful for the outpouring of support the MLA has received as more and more people come to understand the dire reality facing the Maine lobster fishery. It is painfully clear that the future of the lobster industry now hangs in the balance.

Hiring the best of the best and making the sharpest legal case possible each step of the way costs money … lots of it. We will need many more people and businesses to step up to keep this fight going. Everyone should take a moment to consider: what will happen to you, your community, and the state if the lobster industry is destroyed?

To all of our members and Save Maine Lobstermen supporters, I can’t thank you enough for all your steadfast support. It is what continues to make this fight possible.

As always, stay safe on the water.

Kristan Porter
Executive Director
Cutler, 460-0960
207.967.4555
www.mainelobstermen.org

The Maine Lobstermen’s Association is in a race against time to protect the lobstering families of Maine. © Clegg photo.
MLA DIRECTORS MEETING SUMMARY

The MLA Board of Directors met on October 11 in Belfast. The meeting was an open discussion of MLA's work and strategy to save Maine's lobster fishery from NMFS's crusade to impose crushing and unjustified risk reductions on Maine lobstermen. The Board was thrilled to finally announce that MLA had expanded its legal team to include Paul Clement. The MLA continues to retain Stoel Rives and other legal professionals on its legal team. The Board discussed strategies to raise funds to continue MLA's important legal work and also methods to strengthen the organization as it forges ahead in its fight to save the lobster industry.

INDUSTRY LEADERS, DMR MEET HEAD OF NMFS

On October 5, the Department of Marine Resources (DMR) organized a meeting of Maine's fishing industry leaders with Janet Coit, head of the National Marine Fisheries Service (NMFS), Jon Hare, head of the Northeast Fisheries Science Center, and members of the Senate Appropriations staff. Much of the discussion centered around NMFS's handling of its risk reduction mandate for the fishing industry, concerns over its use of the science, lack of transparency about its computer models, fast-tracking of the new rule and the lack of adequate public process. Industry members also raised concern that NMFS is not tagging right whales or conducting adequate surveillance of whales in the Gulf of Maine. Concern was also raised that NMFS did not require the same level of risk reduction for vessel strikes compared to entanglement in its draft vessel speed rule. Senate Appropriations staff were very interested to learn of the industry's concerns over NMFS's actions and pressed the agency for accountability.

NMFS RISK REDUCTION SCOPING MEETING

In response to multiple requests by DMR on behalf of Governor Mills, NMFS held an in-person scoping meeting to hear concerns from the lobster industry over the 90% risk reduction mandate. The meeting was standing-room-only at a large auditorium at the University of Southern Maine in Portland. Lobstermen, some with their families, travelled from all areas of the coast with strong representation from Downeast Maine. After a lengthy presentation by NMFS describing the rationale for the 90% risk reduction, a stream of politicians and industry representatives took to the podium to denounce NMFS's plan. After more than an hour, industry members finally had the chance to speak. Sonny Beal, a third-generation Beals Island lobsterman and MLA Board member, told NMFS that lobster gear is not the problem; ship strikes are. But the Maine lobster industry is paying the price.

Sonny Beal. a third-generation Beals Island lobsterman and MLA Board member, told NMFS that lobster gear is not the problem; ship strikes are. But the Maine lobster industry is paying the price. "You're going to cripple the Maine economy with your lies and computer guesses," he said. "We won't be buying trucks or homes. Our kids won't be going to Maine schools. We won't be shopping of local grocery stores. We won't be taking trips to Old Orchard Beach or Moosehead Lake. In fact, the banks will be crippled because they'll own everything, including our boats."

The meeting was scheduled to run from 6 to 9 p.m., but was extended until 10 p.m. Many left the four-hour meeting frustrated that they did not have an opportunity to speak.

MLA FILES REMEDY BRIEF IN CBD VS RAIMONDO

The MLA asked the Court to send the Final Rule and Incidental Take Statement (ITS) back to NMFS and allow NMFS the time it requests to address the issues identified by the Court. MLA writes, "There will be no easy or quick fix on the science, lack of transparency about its computer models, fast-tracking of the new rule and the lack of adequate public process. Industry members also raised concern that NMFS is not tagging right whales or conducting adequate surveillance of whales in the Gulf of Maine. Concern was also raised that NMFS did not require the same level of risk reduction for vessel strikes compared to entanglement in its draft vessel speed rule. Senate Appropriations staff were very interested to learn of the industry's concerns over NMFS's actions and pressed the agency for accountability.

MLA SUBMITS SCOPING COMMENTS TO NMFS

The MLA submitted written comments to NMFS on its plan to move forward with new rules to reduce the lobster fishery's estimated risk to right whales by 90%. The MLA objected to the scoping process as premature because the model being used by NMFS to assess risk reduction is still under development and the duration of the comment period is far too short. The MLA raised a series of issues that NMFS must address before it moves forward with new rulemaking.

MLA SUBMITS COMMENTS TO NMFS ON LIST OF FISHERIES

The MLA has once again requested that NMFS remove the Maine state waters lobster fishery from the Category I Northeast/Mid-Atlantic American lobster trap/pot fishery and add the Maine state waters lobster trap fishery to the Category II fisheries list. Under the MMPA, U.S. commercial fisheries are classified as follows:

- Category I fisheries include those that take marine mammals frequently (i.e., at levels greater than 50% of any stock's PBR per year).
- Category II are those with occasional takes (i.e., between 1 and 50% of any stock's PBR per year).
- Category III have no, or a remote, likelihood of takes (i.e., less than 1% of any stock's PBR per year).

MLA, DMR MEET WITH INDUSTRY LEADERS TO DISCUSS WHALE RULES

The MLA worked with DMR to organize meetings with industry leaders to begin discussions of what a 90% risk reduction would look like for the Maine lobster fishery. The DMR has access to NMFS's DST computer model which it used to do preliminary assessments of various risk reduction scenarios. However, the discussions raised more questions than answers. The industry is baffled that a 36,000 square mile area of Downeast Maine, with virtually no whale observations, represents more than 40% of the state's estimated risk to whales. There is no way for the fishery to achieve a 90% risk reduction without significant closures of the fishery and trap reductions.
GARFO HEAD EXPLAINS WHAT'S NEEDED TO KEEP LOBSTER FISHERY ALIVE

Declaration of Michael Petony submitted in CBD v Raimondo remedy brief

September 22, 2022

I am responsible for the development and implementation of management programs for the living marine resources of the northeast United States. I supervise the personnel in the Greater Atlantic Regional Fisheries Office (GARFO) Protected Resources Division who are charged with developing and administering the Atlantic Large Whale Take Reduction Plan (ALWTRP) pursuant to the Marine Mammal Protection Act (MMPA), as well as the consulting agency responsibilities associated with the Endangered Species Act (ESA).

Potential Biological Removal

Potential Biological Removal level (PBR) is the maximum number of animals, not including those used for research or historic purposes, that can be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. Population estimates and the associated PBR for marine mammal stocks are published annually in marine mammal stock assessment reports, most recently in the 2021 U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessment. The current PBR for North Atlantic right whales is 0.7 mortalities or serious injuries (M/SI) per year. Based on the recent PBR of 0.7, the risk reduction needed for the U.S. commercial fisheries to reach PBR has increased from 60-80 percent in 2019 (when we began work on the Phase 1 rulemaking) to a risk reduction of approximately 89-94 percent. Since the Phase 1 rule only achieved an estimated 46 percent reduction of risk posed by coastal ALWTRP fisheries, at least an additional 43 to 64 percent reduction of risk is needed in the Phase 2 rule to reach below PBR.

The 89-94 percent range acknowledges existing uncertainty regarding apportionment of cryptic mortalities between the United States and Canada. For the Phase 1 rule and Final Environmental Impact Statement ("FEIS"), we assumed half of all incidents occurred in each country (50/50). NMFS intends to reevaluate apportionment in light of new information and studies that were not available at the time the last rule was developed. The risk reduction methods included in the Phase 1 rule reflect a range of potential U.S./Canada apportionments (50/50, 40/60, and 30/70).

NMFS has conducted a preliminary exploratory analysis of the scale and types of management measures that may be necessary to achieve PBR (89-94 percent risk reduction target) and can report on several findings. First, a complete closure of the Federal trap/pot and gillnet fisheries alone would not be sufficient to reach PBR. Moreover, without additional restrictions, if all ALWTRP Federal fisheries were closed, dualy-permitted vessels would simply shift their gear into state waters. Decision support tool (DST) runs on these scenarios, which also include all Phase 1 measures, results in an approximately 85 percent risk reduction if all gear in federal waters was entirely removed from the ocean, and approximately 61 percent risk reduction if all gear in federal waters was removed from federal waters and redeployed in state waters.

Second, the Plaintiff’s proposal would not achieve PBR. The proposal the Plaintiff describes in the briefing is ambiguous. However, we modeled it to give Plaintiff the benefit of the doubt to resolve ambiguity by maximizing risk reduction in a manner that is consistent with their briefing, as well as discussions at Take Reduction Team ("TRT") meetings, and a May 2022 written submission to NMFS (See attached). Plaintiff’s proposal, as modeled by NMFS in DST reviews, would achieve approximately 82 percent risk reduction. If we simply modeled Plaintiff’s proposal as they describe in their remedy brief without resolving ambiguity toward greater risk reduction or including measures listed in written submission, the result would have substantially less risk reduction and fall well short of reaching PBR.

As illustrated in the initial exploratory analysis, achieving PBR will require a broad suite of management measures implemented in both the federal and state waters. These measures must be developed in a manner that underpins the new rule including: (1) the updated and refined DST; (2) reconsideration of apportionment of mortalities and serious injuries between U.S. and Canada; and (3) reconsideration of apportionment of mortalities and serious injuries between vessels and fisheries. Additionally, this timeline will allow NMFS to utilize a new and updated North Atlantic right whale population model. This model updates the work of Linden (2021) and is currently undergoing peer review. The model provides valuable improvements over the prior Linden model by including important parameters that affect whale reproductive rates such as prey availability, individual reproductive cycles, and responses to sublethal entanglement. NMFS expects this model to be available by early 2023. Further, the proposed timeline would allow for the necessary coordination and consultation with the Atlantic States Marine Fisheries Commission and the Mid-Atlantic and New England Fishery Management Councils to ensure effective implementation.

Negligible Impact Determination

We calculated the North Atlantic right whale Negligible Impact Determination (NID) value following the NOAA Fisheries procedural directive (https://media.fisheries.noaa.gov/dam-migration-02-204-02.pdf). As described in the directive, this value is the product of the minimum population size, half the maximum productivity rate and a negligible impact factor of 0.013 (364 * .02 * .013 = 0.095). This means that NMFS can make a NID finding only if the fishery causes the incidental mortality or serious injury of no more than 0.095 North Atlantic right whales a year or approximately one mortality or serious injury every eleven years.

Timeline for NID

Other than the full closure of state and federal trap/pot and gillnet fisheries, large-scale on-demand implementation is the only certain pathway to achieving NID. NMFS and our partners continue to work on technological and operational solutions that would allow NMFS to utilize a large-scale on-demand implementation. The Marine Mammal Data Conservation Framework, NMFS committed to reducing North Atlantic right whale M/SI caused by federal fisheries to 0.136 per year in 2030. That commitment was based on NMFS’ understanding of when large-scale on-demand fishery would be feasible. NMFS will continue to work towards achieving large-scale on-demand fishing by 2030. Achieving NID will not be possible until that time without massive disruption in the form of wide closures of fixed gear fisheries.
The Fight Just Got Harder.

Here is who has stepped up so far in 2022.

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250 HP @ 3000-3200 Intermittent Duty “D”
225 HP @ 2700-3000 Intermittent Duty “D”
200 HP @ 3000-3200 Intermittent Duty “D”
150 HP @ 3000-3200 Intermittent Duty “D”
115 HP @ 3000-3200 Intermittent Duty “D”
100 HP @ 3000-3200 Intermittent Duty “D”
90 HP @ 3000-3200 Intermittent Duty “D”

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C7.1 Tier 3 Commercial Ratings:
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300 HP @ 2300 Maximum Continuous Duty “C” IN STOCK
480 HP @ 2300 Intermittent Duty “D” IN STOCK
425 HP @ 2300 Intermittent Duty “D” IN STOCK

C8.3 Tier 3 Commercial Ratings:
275 HP @ 1800 Heavy Duty “B”
410 HP @ 2300 Maximum Continuous Duty “C”
470 HP @ 2300 Intermittent Duty “D”

C18 Tier 3 Commercial Ratings:
476 HP @ 2300 Intermittent Duty “D”
715 HP @ 1800-2100 Heavy Duty “B”
855 HP @ 2000 Intermittent Duty “D”

C22 Tier 3 Commercial Ratings:
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POGIES FRESH BY TANK AND BARREL
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Mike Wadsworth
mike@friendshiptrap.com (207) 542-9841

MARKETING UPDATES

As media interest in right whales continues, the MLMC is running the following proactive and reactive public relations efforts to continue to share the fishery’s sustainability story online:

• Continuing to push the fishery’s legacy of sustainability practices on social media platforms.

• Working to maintain consumer confidence in the brand by implementing a video campaign highlighting the Maine Lobster fishery’s sustainability efforts, including those that protect right whales, driving 2.23 million views through a targeted digital advertising program.

• Placing an advertorial in the Boston Globe featuring Heather Strout-Thompson and her family that puts a face to the issues around sustainability, community, and the generational aspects of the fishery.

www.lobsterfrommaine.com
**MLA MEMBER DISCOUNT DIRECTORY**

**Vessel Insurance**

<table>
<thead>
<tr>
<th>Company</th>
<th>Discount</th>
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<tbody>
<tr>
<td>Hamilton Marine</td>
<td>10%</td>
<td>Discounts available to commercial fishermen.</td>
</tr>
<tr>
<td>North Atlantic Power Products</td>
<td>10%</td>
<td>Newer NH: 10% discount for all service repair of twin disc transmissions, 15% off any new MGX series 603-418-0470</td>
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**Fishing, Marine & Industrial**

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<tr>
<th>Company</th>
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<tbody>
<tr>
<td>SW Boatworks</td>
<td>$1000</td>
<td>Hull or top. on a 38' CB or 44' CB. 207-667-7427</td>
</tr>
<tr>
<td>Applied Refrigeration Services</td>
<td>25%</td>
<td>New installations. 207-893-0145</td>
</tr>
<tr>
<td>Blue Sky Hydraulics</td>
<td>10%</td>
<td>For MLA members. 289-474-1914</td>
</tr>
<tr>
<td>Hews Company, LLC</td>
<td>10%</td>
<td>Off hydraulic components &amp; Cable Craft cables. 207-767-2136</td>
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**Fuel & Electricity**

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<tr>
<th>Company</th>
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<tr>
<td>Midcoast Solar, LLC</td>
<td>20%</td>
<td>Off Community Solar electricity for fishermen, lobstermen, aquaculture businesses, and 18% off Community Solar residential electricity for fishermen, lobstermen, and aquaculturists from the Bristol Community Solar Farm. Subscribers also receive a $100 local Gift card of their choice, and an invitation to learning tour and celebration party at Pemaquid Beach in the summer of 2022. 207-677-0037</td>
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**Gifts**

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<th>Company</th>
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<tbody>
<tr>
<td>Maine Camp Outfitters</td>
<td>10%</td>
<td>Off all apparel and promotional product orders. 800-560-6090</td>
</tr>
<tr>
<td>Maine Lobstermen’s Association</td>
<td>10%</td>
<td>Off all apparel. 207-967-4555</td>
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**Hotels**

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<th>Company</th>
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<tr>
<td>Hampton Inn, Ellsworth – (Ellsworth, ME)</td>
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<tr>
<td>Hampton Inn, Downtown-Waterfront – (Portland, ME)</td>
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</tr>
<tr>
<td>Residence Inn by Marriott – (Scarborough, ME)</td>
<td>Discount: Special rates for MLA members and Business Supporters. Contact the MLA for booking information, or mention MLA when booking.</td>
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**Museums & Entertainment**

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<tr>
<th>Company</th>
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<tbody>
<tr>
<td>Penobscot Marine Museum</td>
<td>Free</td>
<td>Admission for MLA members.</td>
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**Show your MLA card to receive great discounts at these fine businesses!**
WHALES AND RISK REDUCTION – WHAT IS HAPPENING AND WHEN?

By MLA staff

Every lobsterman wants to know if they really need to reduce risk by 90%, what measures will be implemented to achieve that, and how long they have before it is put in place. And what happened to the 98% risk reduction? The answers are neither simple nor clear.

NMFS has set the risk reduction for the next whale rule at 90%. The risk reduction must be achieved within six months of implementation of the Final Rule. NMFS claims that this risk reduction is based on the best available science. The way only this could change is if the Maine Lobstermen’s Association (MLA) is successful in its litigation against NMFS, which challenges the agency’s use of the science.

When the 90% risk reduction rule must be completed and the fate of the federal lobster fishery will be determined by Judge Boasberg of the D.C. District Court in the CBD vs Raimondo case. In this case brought by the environmental groups, the Judge Boasberg found that both the new Final Rule and new Incidental Take Statement (ITS) are not legal.

Briefings from all parties on how to resolve this case were completed in late October. The environmental groups initially requested the Court require both a new whale rule and new Biological Opinion be completed by NMFS within six months. NMFS requested the Court give them until December 2024 to finalize the new whale rule and until at least 2030 to issue a new Incidental Take Statement (ITS). The MLA and Department of Marine Resources (DMR) both requested the Court give NMFS the time it requested but noted that issuing a new rule by 2024 and a new ITS by 2030 is overly ambitious. In their final filing, the environmental groups conceded that NMFS needs until December 2024 to issue a new whale rule and Biological Opinion.

While it is anticipated that the Court will tell NMFS to complete a new whale rule within a specified time frame, it is important to remember that the Court could choose a different solution. It is less certain how the Court will resolve the ITS, which is required for NMFS to permit the federal lobster fishery. The Judge is expected to rule by the end of 2022. (To better understand the complexities of the issues in this court case and how it impacts the lobster fishery, read the Declaration of Michael Pentony on page 8.)

How to achieve the 90% risk reduction will be decided by NMFS. While NMFS will consider input from the Take Reduction Team (TRT), the states and other stakeholders, NMFS has final say in what measures are implemented. As was learned during the last round of rulemaking, it could be something that was never discussed during the process, like the LMA 1 Closure. NMFS has stated that new whale measures will be extreme.

According to NMFS, any new management plan will likely include 1) keeping the May 2022 measures in place; 2) targeted large-scale closures where gear is entirely removed from the water and brought to shore for extended periods as opposed to being redeployed elsewhere; 3) broad vertical line reductions (achieved through trap allocation reductions, use of a single vertical buoy on lobster trawls, increased use of ropeless fishing technology, or other means); and 4) expanded use of weak rope or weak links. As an example, NMFS determined that closing all federal fixed gear fisheries falls short of the 90% goal and achieves only 85% risk reduction, assuming that all of that gear is brought to shore.

The 98% risk reduction mandate by 2030 hasn’t gone anywhere. The May 2022 measures were just Step 1. Getting to 90% risk reduction will be Step 2, and then NMFS will come back for more risk reduction to achieve a 98% reduction by 2030. NMFS is pushing hard for ropeless fishing because they cannot envision any other way to achieve a 98% risk reduction.

The MLA sued NMFS (MLA vs NMFS) in September 2021, challenging the scientific basis of NMFS’s risk reduction mandate. MLA argues that NMFS has overestimated the lobster industry’s risk to right whales by cherry-picking the science and using unsupported assumptions and ‘worst-case scenarios.’ Judge Boasberg ruled that both the new Final Rule and new Incidental Take Statement (ITS) are not legal.

The MLA immediately appealed this decision and has been granted an expedited appeal schedule that will conclude briefings by all parties in early January 2023. The MLA’s goal is to overturn Judge Boasberg’s ruling — either at the Appeals Court and if not successful there, at the Supreme Court — so that the MLA’s case can go back to District Court to be heard on its merits. If the MLA case is successful, the Court will force NMFS to reevaluate its science and methods to set risk reduction goals which reflect the actual risk posed by the fishery.

The MLA’s goal is to save Maine’s lobster fishery and preserve the state’s fishing heritage. If the MLA is not successful in its litigation strategy, the current risk reduction mandates of 90% and ultimately 98% by 2030 will remain. The lobster fishery as it currently exists will be eliminated.

They came up with a new way to raise money for the Save Maine Lobstermen Campaign: a catnip fish. Buster’s Homegrown is a cat toy made using lobster fabric and filled with catnip. Thus far, the campaign has donated $400 to the campaign.

Every little bit counts.
Fishermen need to know where they are when they are on the water. For some older fishermen, that knowledge is hardwired into them by years of attention using a compass and a watch. Others today may depend on a GPS unit, electronic plotter and other devices. For centuries, mariners relied on charts to give them a sense of their location. Some of those earlier charts provided an imaginative view of the world, often featuring sea serpents and dragons among the known lands. The Osher Map Library and Smith Center for Cartographic Education on the University of Southern Maine’s Portland campus contains a wealth of ancient and modern maps and charts highlighting the evolution of the cartographic art. Louis Miller is the Cartographer, Reference and Teaching librarian at the Library. "Maps and charts capture people's attention. There's something about them universally accessible to everyone," he said.

Eleanor Houston Smith donated her collection of maps, atlases, and globes to the University in 1986, in memory of her late husband Lawrence M. C. Smith. Dr. Harold Osher and his wife Peggy Osher donated their extensive map collection to the University in 1989 as well as additional resources for the creation of a special map library. The physical facility opened in 1994. Since that time, other donations have increased the size and scope of the collections. The growth of its collections led to expansion of the library in 2009 and the library held half a million maps that date back to 1475. The sophisticated digitization equipment to begin digitizing materials. Other donations have increased the size and scope of the collections.

Among the highlights of the Library is a 1583 chart called the Portolan chart of the Mediterranean Region. Portolan charts are characterized by a network of rhumb lines leading from the circles, concentrate on the coasts and islands, and have place names written perpendicular to the coastline on the land side. Hand drawn on vellum, this historic Mediterranean chart also has drawings of castles and flags from around the region and a flock of mythical creatures, including a unicorn, along its edges. The Library's J.W. Des Barres charts from the late 1700s are precise estimates where they were relative to the coast. As cartography progressed, the degree of detail in charts increased as well. Mythical creatures disappeared as chart makers brought more scientific methods to bear. The Library’s J.W. Des Barres charts from the late 1700s are precise illustrations of the islands and water depths along the coast of Maine. A 1776 chart of the islands of Casco Bay, for example, gives soundings throughout the Bay and shows the islands' extensive tidal flats, even roads and houses along the shore.

A 1740 chart by John Senex of the coast from Staten Island to Cape Breton in Canada highlights the large and small fishing banks within the Gulf of Maine. Some are called simply "pollock bank" or "cod bank." Senex also identified dangers to bear. The Library's J.W. Des Barres charts from the late 1700s are precise illustrations of the islands and water depths along the coast of Maine. A 1776 chart of the islands of Casco Bay, for example, gives soundings throughout the Bay and shows the islands' extensive tidal flats, even roads and houses along the shore.

At that time, sailors navigated via rhumb lines. Mariners paid great attention to such things as wave and cloud patterns or the presence of certain birds to estimate where they were relative to the coast. It is a practical chart used for navigation," said Miller, "but it also shows how someone visualized the world. It has a water stain. It shows that it was used on a voyage."

"It is a practical chart used for navigation," said Miller, "but it also shows how someone visualized the world. It has a water stain. It shows that it was used on a voyage."

By Melissa Waterman

HISTORY OF NAVIGATION STORED IN OSHER MAP LIBRARY

Rhumb lines and knowing the coast were keys to successful navigation in the 1500s. Photos courtesy of Osher Library.
FISHERMEN, ENVIRONMENTAL ORGANIZATIONS URGE BOEM TO SLOW GULF OF MAINE LEASING PROCESS

By MLA staff

On August 19, the Bureau of Offshore Energy Management (BOEM) published two notices in the Federal Register to solicit public comment to move forward on offshore wind development in the Gulf of Maine. The initiative is part of the Biden administration’s goal of deploying 30 gigawatts of offshore wind energy capacity by 2030.

BOEM published a Request for Interest (RFI) which “is the first step in BOEM’s commercial planning and leasing process to identify the offshore locations that appear most suitable for development, taking into consideration potential impacts to other resources and ocean users. The purpose of the RFI is to gauge interest in the development of commercial wind energy leases within the RFI Area, which consists of about 13,713,800 acres in the Gulf of Maine.” BOEM said in a press release.

BOEM also published a Request for Competitive Interest (RFCI) which is the agency’s next step in evaluating Maine’s application for a research lease in the Gulf of Maine. The state’s application requested a lease of 8,700 acres 20 nautical miles from the coast for construction and operation of a floating offshore wind turbine array to conduct research. The research array would comprise up to 12 floating offshore wind turbines capable of generating up to 144 megawatts of renewable energy.

The Maine Lobstermen’s Association (MLA), in its comments, pointed out the jeopardy rapid development of the Gulf of Maine would put lobstermen due to the harm such development could have on endangered North Atlantic right whales. “[The] MLA is particularly concerned with the impact of offshore wind on endangered North Atlantic right whales since any negative impacts on this species have direct regulatory impacts on Maine’s lobster fishery. Given the significant deficiencies in our understanding of the environmental impacts of offshore wind development and potential for irreparable harm to Maine’s fishing industry and coastal communities, the MLA strongly urges BOEM not to move forward with commercial leases in the Gulf of Maine.”

The MLA further cautioned BOEM on the rapid speed with which it was encouraging offshore wind energy projects in New England waters. “The MLA remains very concerned that BOEM is moving forward offshore wind development projects in areas of critical importance to North Atlantic right whales, both off of Massachusetts and in New York Bight, and now possibly the Gulf of Maine. It is unconscionable that as National Marine Fisheries Service is moving full steam ahead towards eliminating fixed gear fisheries to save right whales, BOEM is permitting the development of industrial wind farms in the habitats most critical to supporting these whales.”

The members of the Governor’s Offshore Wind Road Map Fisheries Working Group, organized by the Office of Energy, also wrote in opposition to BOEM’s haste in moving forward with leasing.

"Considering the importance of the Gulf of Maine as an ecosystem and economic driver within the blue economy, the speed at which the BOEM process is moving forward is disturbing and unnecessary. Good process leads to better results, and the establishment of a comment period before the Road Map from Maine is even completed does a disservice to the time and commitment that Maine’s diverse communities have contributed to this process, the members wrote.”

Members of the Fisheries Working Group (FWG) are concerned that by having a comment period that does not take the findings of the Road Map into consideration that important work and suggestions will be lost to BOEM.” The letter included the extensive list of recommendations developed by the FWG on avoiding important commercial fishing grounds, highest use and highest value fishing areas, sensitive habitats and protected areas, as well as safety, navigation, research priorities, among others.

Signatories to the comments were Maine Coast Fishermen’s Association, MLA, Maine Center for Coastal Fisheries, Maine Lobstermen’s Union, and fishermen Terry Alexander, Dustin Delano, Bob Humphrey, Chris Weiner, and Ebren Wilson.


After the RFI and RFCI were released without any provision for such a review, the group wrote to BOEM, “This decision epitomizes short-term thinking that will only cause problems in the long run. It’s simply backwards to choose areas for offshore wind development before doing a full environmental analysis, which would ultimately save time and money if done now. It is critical to advance offshore wind to respond to the climate crisis and clean up our electric grid, but it must be done in a science-based, inclusive and transparent way.”

The 25 Fisheries Working Group recommendations are available online at https://www.maineoffshorewind.org/working-group-recommendations.

Many thanks to these fine businesses, the MLA’s Keeper members!

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<tr>
<th>Acutech Marine Propeller</th>
<th>Island Fishermen’s Wives</th>
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<tr>
<td>Atlantic Edge Lobster</td>
<td>John’s Bay Boat Co.</td>
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<td>Bar Harbor Bank &amp; Trust</td>
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<td>Beals-Jonesport Coop Inc.</td>
<td>Lobster Trap Co.</td>
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<td>Beals Lobster Pier</td>
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<td>Chapman &amp; Chapman</td>
<td>Maine Center for Coastal Fishes</td>
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<td>Chase Leavitt</td>
<td>Maine Financial Group</td>
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<td>Guy Cotten, Inc.</td>
<td>Milton Cat</td>
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<td>Infab Refrigerators Inc.</td>
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<td>Inland Seafood</td>
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<td>Interstate Lobster Co.</td>
<td>New England Marine &amp; Industrial Inc.</td>
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<td>Island Fishing Gear &amp; Auto Parts</td>
<td>New England Propeller</td>
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<td>Northeast Marine Survey</td>
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| Novatec Braids LTD       | Olver Investments, LLC  |
| Pack Edge                | Port Clyde Fishermen’s Cooperative |
| Port Lobster Co.         | RE Thomas Marine Hardware |
| Riverdale Mills          | RGI Tax Accounting and Resolution |
| Rope Razor               | Shearwater Marine Surveying |
| Seacoast Tours of Freeport| Superior Marine Products |
| Tenants Harbor           | Fisheries’s Cooperative |
| The Clam Shack           | Varney Insurance Inc.    |
| Varnish salmon fisheries Cooperative | William Coffin & Sons |
| William Harbor           | Fisheries’s Cooperative |
| Woods Hole Group         | Winter Harbor |
TO YOUR HEALTH:  

Sleep heals body and mind

By Melissa Waterman

Your eyes are closing. It’s late in the day, you hauled half your traps today, and now you’re heading in. But you didn’t get much sleep last night and, as a matter of fact, you didn’t get much sleep the night before. Now you’re at the wheel and your head is nodding. You need to sleep.

Everyone needs to sleep. Adults need seven hours or more of shut-eye each night; children need even more. Sleep is a basic human need, akin to eating, drinking, and breathing. If you don’t sleep, you will die. And if you don’t get enough good sleep, you can make yourself sick, crazy, or both.

Fishing is not a career known for steady sleep. The weather and the tides dictate work hours and the work itself is physically hard. Inconsistent sleep or just lack of deep sleep pose health risks, both in the long-term and immediately, due to dangerous mistakes made on board.

According to the Centers for Disease Control and Prevention, about one in three adults in the United States reported not getting enough rest or sleep every day. Sleep deficiency can lead to physical and mental health problems; it can interfere with work, school, driving, and social functioning. Lack of sleep leads to trouble learning, focusing, reacting, and even difficulty judging other people’s emotions and reactions.

What happens when you fall asleep? A person moves through two types of sleep each night: non-rapid eye movement (non-REM) and rapid eye movement (REM) sleep. The brain and the body act differently during these different phases. Non-REM sleep happens first and includes three stages. The last two stages of non-REM sleep are when you sleep deeply and it’s hard to wake up. REM sleep occurs about an hour to an hour and a half after falling asleep and lasts for perhaps 10 minutes. During REM sleep a person tends to have vivid dreams. A full sleep cycle takes about 90 to 110 minutes and is repeated many times each night.

You can’t skip either type of sleep. Certain things may harm the sleep cycle. According to the Cleveland Clinic, alcohol may help people fall asleep, but it reduces the deeper stages of sleep and REM sleep. Caffeine and pseudoephedrine (found in over-the-counter drugs) can stimulate the brain. Caffeinated drinks, such as coffee or Red Bull, and drugs, such as decongestants, can lead to insomnia. Other medications, such as antidepressants, can cause less REM sleep. People who smoke heavily often sleep lightly and have less REM sleep, waking up after a few hours because of nicotine withdrawal.

Add to these factors the uncertain work schedule of a fisherman and you have a recipe for acute sleep deprivation. The Northeast Center for Occupational Health and Safety is currently conducting a study, titled Sleep Deprivation in the Commercial Fishing Industry: Researching the Impacts to Fishermen’s Health, to assess how the lack of sleep affects fishermen’s long-term health.

Although lack of sleep from day to day may be accepted in fisheries circles, sleep plays a very important role in overall health, cognitive functioning and mental health, according to Julie Sorensen, director of the New York Center for Agricultural Medicine and Health at the Northeast Center.

For example, the deepest non-REM sleep cycle is associated with cellular repair and strengthening of the immune system. REM sleep is associated with increased brain metabolism and deeper sleep is associated with memory consolidation. Lack of or irregular sleep patterns can initiate the production of ghrelin (often referred to as the ‘hunger hormone’), which can lead to weight gain and issues with cardiac health. Despite the importance of sleep to overall health, however, little research has been conducted on commercial fishermen.

The Northeast Center is addressing this gap in knowledge by conducting a sleep study with Alaska Salmon gillnet fishermen, Oregon Dungeness crab fishermen and Massachusetts scallop and lobster fishermen. The project has multiple objectives which include understanding whether it is even possible to conduct sleep studies in fisheries and looking for initial associations between lack of sleep and health outcomes that should be further studied.

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(207) 233-8846
NMFS announced on October 24 that it would be using updated data in its preliminary 2020 North Atlantic right whale population estimate. The agency drew on right whale data from 2016-2020 rather than 2015-2019. Use of that data reduced the number of estimated entanglements due to fishing gear from 70% to 66%. Observed data from 2013-2022 resulted in 74% of all observed entanglements assigned to fishing gear. Prior to 2021, risk reduction estimates were calculated by subtracting out the known country of origin from entanglement cases then applying country ratios to the remaining total estimated mortality or cases with unknown cause of death. Even if NMFS took this approach using the current 2016-2020 mortality data, there would be little change in the total estimated risk reduction required to get mortality and serious injury to a level below the Potential Biological Removal rate.

INJURED RIGHT WHALE ESTIMATE RISES, AGAIN

The National Marine Fisheries Service (NMFS) is adding morbidity cases (i.e., sublethally injured or ill whales) to the ongoing North Atlantic Right Whale Unusual Mortality Event, which began in 2017. The additions are based on a new scientific veterinary peer-reviewed protocol developed to provide a more complete picture of the population's health. The 36 sublethal injury or illness cases reflect vessel strikes, entanglements, and injuries or poor body condition of unknown cause. Adding the new cases brings the total number of whales included in the Unusual Mortality Event to 91.

ATLANTIC SEA SCALLOP STOCKS AT LOWEST SINCE 1999

The New England Fishery Management Council reviewed a scallop survey report in October that showed the Atlantic sea scallop fishery is facing its lowest biomass in over 20 years. From a peak of more than 250,000 metric tons in 2000, the Georges Bank region saw the largest biomass decrease of almost 30%. The Georges Bank region saw the largest drop, around 36%. Council staff estimated catch would be lower than 44 million pounds in 2023.

AGENCIES CRAFT STRATEGY TO MOVE OFFSHORE WIND PROJECTS FORWARD

NMFS and the Interior Department released a draft strategy Friday to protect the endangered right whale amid an imminent boom of offshore wind development. The draft lays out a plan for both agencies to engage with the public and ocean users. It also spells out several primary goals for raising wind turbines while trying to recover the whale's population, such as prioritizing mitigation, new research and monitoring, and improving communication. The two agencies are critical in assessing the marine life and fisheries impacts from construction of large-scale wind farms in the ocean, and their approval is needed for developers to obtain permits to build. More than a dozen offshore wind arrays are proposed or approved for construction in federal waters off the coast of New England.

HARPSWELL FISHERMAN NAMED NATIONAL FISHERMAN 2022 HIGHLINER

Terry Alexander of Harpswell, Maine, has fished for over 40 years, running his 62-foot trawler Jocks for Gulf of Maine groundfish and squid down into the Mid-Atlantic waters. His other boat, the Rachel T, can harvest northern shrimp, gillnet for groundfish in the late summer and winter, and monkfish in waters off Rhode Island.

Alexander has hosted numerous scientists and others conducting cooperative research on both boats, from Nordmore grate work in the northern shrimp fishery to an industry-based cod survey in the Gulf of Maine. He was appointed to the Mid-Atlantic Fishery Management Council in 2009, served a term, and then was appointed to three terms on the New England Fishery Management Council from 2012 to 2021.

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The Maine lobster fishery is essential to Maine’s culture, heritage, and economy, from real estate, hotels, and restaurants to trucking companies, auto dealerships, and banks, to name a few,” said Porter.

“The Maine lobster industry is in utter shock and disbelief that their own federal government has set a course to eliminate a fishery that has never been known to kill a single right whale,” said Patrice McCarron, MLA executive director.

“Th is is a clear case of government overreach. It is no exaggeration to say that the fate of the Maine lobster fishery, a national icon, hangs in the balance,” said Paul Clement. “Th e applicable statute requires the agency to apply the best available evidence. Th e agency instead has resolved every doubt and every disputed issue against the lobster fishery. Th e agency is inflicting unprecedented hardship on Maine lobstermen, while explicitly acknowledging that all this suffering will do nothing to restore the right whale so long as they continue to die in Canada.”

The MLA continues its urgent fundraising appeals to all who value the Maine lobster fishery. Donations can be made to Save Maine Lobstermen at www.save-mainelobstermen.org or by mailing a check to MLA, 2 Storer Street, Suite 203, Kennebunk, ME 04043.

**November 7-10**
Atlantic States Marine Fisheries Commission meeting, Ocean Place Resort, Long Branch, NJ.

**November 8**
ELECTION DAY
MLA Directors Meeting, 5 p.m., United Farmers Market, Belfast.

**November 15**
Apiculture Public Hearing, Islesboro Marine Enterprises, Inc., 2 p.m., 150 Main St., Islesboro.

**November 10**

**November 14, 15, 17, 18**

**December 1, 2**

**December 6**
Aquaculture Public Hearing, Acadia Sea Farms, Inc., 4 p.m., Trenton Town Hall.

**December 6-8**

**December 12-14**

**December 13**
Maine Offshore Wind Roadmap Advisory Committee Meeting, 9 a.m.-noon, virtual meeting. [https://www.mainenoffshorewind.org](https://www.mainenoffshorewind.org).

**December 14**
Shellfish Advisory Council, 1-4 p.m., Moore Community Center, Ellsworth, or Microsoft Teams.

**December 20-22**
Atlantic States Marine Fisheries Commission meeting, Ocean Place Resort, Long Branch, NJ.

**December 26-28**
New England Fishery Management Council meeting, Ocean Place Resort, Long Branch, NJ.

**December 29**
Atlantic States Marine Fisheries Commission meeting, Ocean Place Resort, Long Branch, NJ.

**December 30**
New England Fishery Management Council meeting, Ocean Place Resort, Long Branch, NJ.

**December 31**
Atlantic States Marine Fisheries Commission meeting, Ocean Place Resort, Long Branch, NJ.

**January 1, 2023**
Atlantic States Marine Fisheries Commission meeting, Ocean Place Resort, Long Branch, NJ.

**January 31**
New England Fishery Management Council meeting, Ocean Place Resort, Long Branch, NJ.

**February 2023**
Atlantic States Marine Fisheries Commission meeting, Ocean Place Resort, Long Branch, NJ.
The calendar is moving into the holiday season and the coast of Maine is growing brighter with events and festivities. In November and December, you can find shining lobster trap trees, brilliantly lit lobster boats, and even Santa Claus arriving by lobster boat at harbors throughout the state. We offer here a selection of events taking place this holiday season.

**COASTAL TOWNS GET READY FOR THE HOLIDAYS**

Rockland Lobster Trap tree lighting, November 26, dusk.


Bar Harbor Buoy Tree lighting ceremony, November 30, 4:30 pm. www.visitbarharbor.com

Kennebunk 41st Christmas Prelude, December 1-11. www.christmasprelude.com

York Festival of Lights, beginning December 1.


Boothbay Harbor Lighted Boat Parade and Fireworks, December 3, 4 p.m. www.boothbayharbor.com/event/annual-lighted-boat-parade-and-sparkle-fireworks

36th Ogunquit Christmas by the Sea, December 9-11.

Portland Harbor Parade of Lights, December 17, 4:45 p.m.

Lubec Sardine and Maple Leaf Drop, midnight, December 31

Winter Harbor Music Festival, New Year’s Celebration, December 31. www.winterharbormusicfestival.org

Photos, clockwise from top left: Portland lobster boat, Portland Chamber of Commerce. Parade of Lights vessel, Rockland Main Street. Jonesboro trap tree volunteers, Jonesboro Grange. Nubble Lighthouse, WCVB.