

September 8, 2022

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Monterey Bay Aquarium
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To the Board of Monterey Bay Aquarium:

The recent decision by Monterey Bay Aquarium's Seafood Watch to “Red List” Maine lobster with scant evidence of impacts on right whales is a reckless piece of activism that will inflict substantial negative real-world consequences on an important and iconic industry in Maine – which as noted in your report, is the single most valuable fishery in the United States.

If you are going to make claims that will do concrete harm to a proud, responsible industry, you should have – and present – concrete facts to support these claims; not assumptions, not inferences, not possibilities, but evidence. But as you admit in your report, “*due to a lack of information, it is often not possible to assign entanglements to a specific fishery.*”¹

In a courtroom, we require evidence before convicting someone of a crime; but you are seeking to sentence Maine’s lobstermen with conjecture, assumptions, and guesswork instead of hard facts.

If anything, the publicly available facts rebut this aggressive action that will impact the livelihoods of thousands of people in Maine, and make it clear that you should immediately reverse the irresponsible designation:

- 1) There has not been a right whale entanglement with Maine lobster gear since 2004,² and right whale deaths or serious injury have never been attributed to Maine lobster gear.
- 2) The majority of right whale deaths since 2017 have been due to vessel strikes in Canada.³ In fact, 23 of the 30 whales that died between 2017-2019 were found in Canadian waters or were a result of entanglement in Canadian fishing gear.
- 3) The Maine lobstering community has taken many measures, including eliminating all floating rope (the type of rope most likely to entangle whales) and removed an estimated 30,000 miles of line from the water,⁴ facts your report conveniently ignores.

¹ Seafood Watch report 39

² https://rightwhalesandmainelobster.com/wp-content/uploads/2022/09/mlmc_mainelobster-monterey-bay-aquarium-seafood-watch-the-facts.pdf

³ <https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2022-north-atlantic-right-whale-unusual-mortality-event>

⁴ <https://www.mainelobstermen.org/right-whales>

Yet, none of these demonstrable, objective facts were considered in Monterey Bay’s Seafood Watch “Red Listing” decision.

Not only that, your assessment fails to make the critical distinction between the Maine lobster fishery and Canadian fisheries. Since 2017, NOAA data has shown that the majority of mortalities in right whale population has been attributed to vessel strikes in Canada. These vessel strikes are not at the hand of the lobstermen in Maine.

With ocean waters continuing to warm due to climate change, the omission of this distinction becomes even more unacceptable. The overwhelming majority of lobsters caught in Maine come from outside of right whale critical habitat, which represents less than three percent of the overall risk to the species. Right whales have been chasing migrating feed north and spending more time in Canadian waters (the Gulf of St. Lawrence and into the Labrador Sea), and less in the waters used by Maine fishermen, but you chose to ignore this development in your assessment.

Maine lobstermen have long been committed to environmentally conscious, sustainable fishing. Your evaluation ignores the work they have been taking with the Maine Department of Marine Resources since the 1990s to support the sustainability of several large whale species.

As part of ongoing collaboration with NOAA and other regulators, lobstermen have agreed to gear markings; implemented sinking ground lines; have moved to weaker lines; inserted “weak links” into vertical lines; and increased the size of their trawls to reduce the number of vertical lines in the water. Through these efforts, the Maine lobster fishery has removed an estimated 30,000 miles of line from the water in order to protect whale species.

According to data collected by NOAA, these efforts have been effective, but it seems you just don’t care. Out of the ten right whale entanglements in U.S. lobster gear from 1997 through 2017, for which the set location and type of gear are known, eight occurred before 2009 and the other two involved gear from Massachusetts that was successfully removed. In your report, you refused to take these efforts into account, saying that the “*effects on mitigation of whale entanglement have yet to be determined.*”⁵ This overlooks the progress Maine lobstermen have made and is a sweeping, arbitrary assumption that all fisheries using lines and traps are a risk.

By ignoring these clear facts, Seafood Watch isn’t encouraging safe fishing; instead, you are damaging the reputation of your certification process by misleading consumers. There’s an easy way to fix this – now that you’ve seen the facts, reverse your decision and take lobster off the “Red List.”

If not, you owe Maine people an explanation to several key questions about your harmful “Red Listing” decision:

- 1) How does harming an already challenged lobstering community with little to no evidence of right whale entanglements promote the safety of right whales?
- 2) Monterey Bay Aquarium’s Seafood Watch listed Maine Lobster as a “Good Alternative” in 2014. Since then, the Maine Lobster fishery has implemented even

⁵ Seafood Watch report page 40

- more changes to protect right whales. Why does the new report fail to take these actions into consideration?
- 3) Claiming that any fishery with rope in the water as an equal threat to right whales undermines efforts by Maine lobstermen to make gear safer, as well as Seafood Watch's purpose to distinguish between fisheries working to improve sustainability measures and those that aren't. Why does Seafood Watch use a blanket assessment rather than putting in the effort to be specific and accurate?
 - 4) In presenting its pseudoscientific claims, why did Seafood Watch omit objective facts that would present a more comprehensive view of the reality?
 - 5) What steps is Seafood Watch prepared to take to remedy the significant harm they have already inflicted on the Maine lobster industry?

Your accusation that Maine lobstermen are to blame for the troubles of North Atlantic Right Whales is flat out wrong. Right whales are not dying in Maine lobster gear and the report blindly ignores everything that Maine lobstermen have done to create a sustainable industry. Make no mistake, your designation will have a real world impact – with the industry already facing challenges, the inaccurate designation will hurt the thousands of hardworking lobstermen, their families, and businesses across our state.

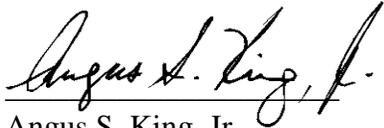
In any fair system of justice or public proceeding, it's required to provide evidence of wrongdoing before a verdict can be rendered – innocent until proven guilty. The process you have undertaken turns this principle on its head. How would you like to be the defendant in a process where the standard is guilty until proven innocent?

You have appointed yourself Judge, Jury, and Executioner of the Maine lobster industry – ignoring clear facts, and not meeting even the most basic burden of proof before coming to a conclusion. Your report repeatedly confesses that there is not any hard evidence to back your claim, and admit that Maine lobster is being “Red Listed” not on a factual basis, but *“until there is more specific information available regarding which fisheries are responsible for the unattributed entanglements.”*⁵

That's not science, that's irresponsible conjecture, a baseless smear, and an egregious violation of the scientific principles you claim to stand for. This is among the most irresponsible actions we have ever seen in our years of public service, and we are deeply disappointed that you have allowed this action to – perhaps irreparably – tarnish the name of your previously-respected institution.

We appreciate your attention to this incredibly important matter, and await your prompt reply. Each day which goes by with this designation in effect compounds the damage to the lobster industry and the good people of Maine.

⁵ Seafood Watch report page 41



Angus S. King, Jr.
United States Senator



Susan M. Collins
United States Senator



Chellie Pingree
Member of Congress



Jared Golden
Member of Congress



Janet T. Mills
Governor