

September 8, 2020

Ms. Jennifer Dianto Kemmerly
Vice President, Global Oceans Initiatives
Monterey Bay Aquarium
886 Cannery Road
Monterey, CA 93940

Re: Monterey Bay Aquarium Seafood Watch Draft American Lobster Report, August 11, 2020

Dear Ms. Kemmerly:

We write in collaboration with, and in strong support of, the September 4, 2020, letter and factual response signed by lobster industry members and the Maine Department of Marine Resources (“Stakeholder Letter”). As discussed during our August 10 video call, and as the Stakeholder Letter addresses in detail, we continue to believe that the American Lobster fishery in the northern Gulf of Maine does not, by any objective or credible analysis, meet the criteria for a listing of “Avoid” or “red” from Monterey Bay Aquarium’s Seafood Watch (MBA).

Since the Atlantic Large Whale Take Reduction Team (TRT) process was implemented in 1997, the Maine lobster fishery has implemented significant changes to its harvesting practices and gear specifically to protect the North Atlantic right whale (NARW). These modifications include reducing vertical lines, marking gear, and requiring the use of weaker links and rope. These measures, which have been costly and labor-intensive for fishermen, were implemented in the course of the NARW population’s encouraging growth from a fragile 258 in the 1990s to more than 450 in 2015 — a trend in recovery that may have continued through today if not for mortalities definitively linked to ship strikes and entanglements in Canadian waters. As noted on our call, it is well documented that there has not been a known right whale entanglement in Maine waters since 2004. For these reasons, Maine lobster-fishermen and industry leaders are understandably shocked by news of a potential “red” listing.

As we learned on the August 10 call, MBA’s initial findings were circulated to just a few select entities earlier this year, eliminating the opportunity to incorporate broader scientific feedback and engage in a meaningful dialogue with stakeholders. Given the gravity and impact of the proposed change of status from “yellow” to “red” for the American Lobster fishery - and the fishery’s long record of collaborative conservation - we believe it would have been productive and prudent to consult stakeholders in a more comprehensive way early in the process. We look forward to seeing the results of recently improved measures of transparency and collaboration.

To echo the Stakeholder Letter, it is misleading to suggest to consumers that untraceable whale entanglements are the result of Gulf of Maine/Georges Bank (GOM/GBK) lobster fishing; when there is clear evidence that many entanglements are *definitively* occurring in other fisheries and outside GOM/GBK. Like the stakeholders, we are particularly focused on MBA's findings regarding bycatch Strategy (Factor 3.2). In 2014, MBA rated GOM/GBK bycatch strategies as "Moderately effective," but downgraded these strategies to "Ineffective" in the new draft report. The following points, taken from the Stakeholder Letter, warrant reiteration:

- To claim that the TRT process is ineffective ignores the fact that when it was implemented in 1997 the total NARW population was approximately 295 whales. The population steadily increased to 458 whales in 2015.
- The paper cited (Pace 2014) in the draft assessment, which asserts the Take Reduction Plan is ineffective, is inappropriate and inadequate given it only considers data through 2009. Notably, the TRT's rules on sinking groundline and trawling up took effect in 2009 and 2015, respectively. We think it is wholly unfair to assert that the current bycatch strategy is ineffective based on data that is more than 10 years old and *predates the current bycatch management strategy*.
- Since 2010, US lobster entanglements have decreased 90% compared to the 13 years prior, with only a single documented GOM lobster fishery case in 2016, which occurred in Massachusetts and did not result in mortality or serious injury. During this same time period (since 2010), 16 documented entanglements have been attributed to Canada.
- Canadian entanglements and vessel strikes, which the TRT has no authority to address, have significantly hampered the recovery of NARWs in the past five years, with 23 of the 31 known NARW deaths since 2017 being attributed to Canada, and zero to the GOM/GBK lobster fishery.
- 22 births have occurred since 2017, including 10 this year. But for causes of death unrelated to the GOM/GBK lobster fishery, the population likely would have continued its trend of recovery since implementation of the TRT process.

Knowing the high importance that both MBA and consumers place on the integrity and depth of the analysis that underpin buying recommendations, the use of selective or outdated data sets could have lasting negative implications for the fishing industry, consumers, ocean ecology, and MBA's reputation and credibility. Along those lines, implementing a "red" finding now ignores concurrent legal and regulatory proceedings: on August 19, 2020, DC District Court Judge Boasburg established a May 31, 2021, deadline for the National Marine Fisheries Service to complete a new Biological Opinion and new whale rules for the lobster industry. The GOM/GBK lobster fishery is now in the midst of a diligent process to implement new regulations and policies that will make its lobster fishery even safer for non-target species.

To impose a “red” designation based upon the scant, outdated, and contradictory evidence presented in your report is grossly unfair to thousands of families in Maine, is antithetical to any sense of a reasonable process, and risks severely undermining the credibility of your organization.

In conclusion, we encourage the following:

1. Monterey Bay Aquarium and Seafood Watch continue to engage in a meaningful and collaborative discussion with industry, stakeholders, and government regulators to find workable and collaborative solutions for the overall health of the ecosystem;
2. American Lobster Fishery at least remain “yellow” if not be upgraded to “green” based on the data outlined in the Stakeholder Letter; and
3. Potential downgrades for any GOM/GBK fisheries be handled in a transparent and collaborative process, allowing input and dialogue along the way to build trust between your organization, consumers, fishermen, and industry stakeholders.

We look forward to your response and to seeing the American Lobster rightfully continue as a “yellow” listed fishery.

Sincerely,



Susan M. Collins
United States Senator



Angus S. King, Jr.
United States Senator



Chellie Pingree
Member of Congress



Jared Golden
Member of Congress



Janet T. Mills
Governor