

Congress of the United States

Washington, DC 20510

May 28, 2019

The Honorable Neil Jacobs, Ph.D.

Assistant Secretary of Commerce for Environmental Observation and Prediction and Acting
Under Secretary of Commerce for Oceans and Atmosphere
National Oceanic and Atmospheric Administration (NOAA)
1401 Constitution Avenue NW
Washington, DC 20230

Dear Acting Under Secretary Jacobs:

We are writing in regard to the ongoing North Atlantic right whale take reduction efforts and their significant impact on the Maine lobster industry.

As you are aware, Maine fisheries officials and stakeholders have been actively engaged on the Atlantic Large Whale Take Reduction Team (ALWTRT) and in correspondence with NOAA Fisheries, with the primary objective of providing the most relevant data possible to ensure that the resulting measures target areas of high risk and yield conservation benefits possible for right whales. We have been closely monitoring these developments and appreciate the opportunity to raise with you some concerns that are of great ecological and economic importance.

A key component of the consensus agreement from the April ALWTRT meeting was that each state or Lobster Conservation Management Area (LCMA) achieve a 60 percent risk reduction in their respective jurisdiction. While lobstermen and regulators in Maine have put forward a plan to reduce the fleet's vertical lines by 50 percent thus demonstrating their strong, long-standing commitment to responsible stewardship, we are concerned that some of the proposals put forth by other jurisdictions appear to be insufficient. Specifically, some of these plans would not be able to meet the stated target or would rely on measures that would negatively affect all of LCMA-1 (including all of Maine's federal permit holders). We believe it is unfair and untenable for states to be held to differing standards and, as a result, not achieve the agreed-upon level of risk reduction. NOAA Fisheries must ensure equity across all fleets and states in LCMA-1 as well as amongst all LCMAs.

In addition to demanding parity in whale conservation plans across U.S. jurisdictions, we strongly believe NOAA Fisheries also must ensure that Canada implements equitable measures given its several fisheries' significant contributions to right whale deaths and injuries. We are concerned that when attributing the serious injury and mortality to gear of unknown origin, NOAA Fisheries' methodology assumes that the risk in U.S. and Canadian waters is the same – despite strong scientific and empirical evidence to the contrary. We believe that the risk reduction target and management measures used to reduce risk to whales should more accurately reflect the proportion of entanglements seen in the data related to each country, regardless of temporal distribution.

Furthermore, we urge you to put the Decision Support Tool through a peer review process, as it is clear there are components of this tool that deserve a higher level of scrutiny. One such component is the severity score for various gear configurations and the means by which it was established. We are troubled that NOAA Fisheries opted to conduct a poll of the ALWTRT

members to calculate the risk posed to whales by different types of gear in lieu of using existing datasets. We understand that the tool also appears to be extremely sensitive to these severity scores, underscoring their importance. As such, we encourage NOAA Fisheries to devote immediate attention to this component of the tool to ensure that it is accurately guiding these significant policy changes. A peer review process could also help to address the fact that the data used do not accurately reflect the distribution shift of right whales since 2010.

In the coming weeks and months, the Maine Department of Marine Resources will hold Zone Council meetings to present draft proposal options to the industry, and also work with their counterparts in other states to ensure that the proposals for LCMA-1 are sufficient and equitable in their impact to fishermen who operate in that management area. Finally, we are encouraged to learn that NOAA Fisheries anticipates holding four scoping meetings in Maine on a timeline that allows the state to consult with the industry on the development of its proposal. We appreciate your agency's willingness to allow for and facilitate these opportunities for industry engagement.

We welcome your feedback and urge your immediate attention to the abovementioned issues, and respectfully request answers to the following specific questions:

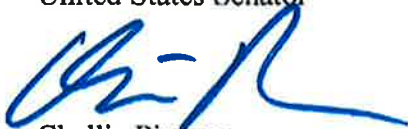
1. How will NOAA Fisheries ensure that the proposals from all relevant states and lobster management jurisdictions are held to the same standard and achieve the required 60 percent risk reduction target?
2. How will NOAA Fisheries ensure that the risk reduction requirements more accurately reflect the proportion of entanglements seen in the data related to the U.S. compared to Canada?
3. How does NOAA Fisheries plan to collaborate with – and also hold accountable – Canadian fisheries interests?
4. Will NOAA Fisheries allow for the Decision Support Tool to undergo a peer review process? If not, why not?
5. How does NOAA Fisheries plan to work with Maine's lobster fishery to protect and maintain the diversification of the fleet as right whale take reduction efforts move forward?

Thank you for attention to this matter. We look forward to continuing to work with your agency toward a science-informed and equitable solution that protects the fragile right whale population without unfairly or disproportionately burdening the Maine lobster industry.

Sincerely,



Susan M. Collins
United States Senator



Chellie Pingree
Member of Congress



Angus S. King, Jr.
United States Senator



Jared F. Golden
Member of Congress