

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CENTER FOR BIOLOGICAL DIVERSITY,
et al.

Plaintiffs,

v.

GINA RAIMONDO, et al.,

Federal Defendants,

and

MAINE LOBSTERMEN'S ASSOCIATION,
INC. et al.,

Defendant-Intervenors.

C.A. No. 18-112 (JEB)

DECLARATION OF ELIZABETH CASONI

I, Elizabeth Casoni, declare and state as follows:

1. I make the statements in this declaration based on my own knowledge, except as to those things stated as being based on my belief or understanding. For those things, I believe them to be true.

2. I am the Executive Director of the Massachusetts Lobstermen's Association, Inc. (the "MALA"). I have been employed in this position since August 2014. I have worked for MALA in a variety of positions since 2008.

3. MALA is a member-driven organization that accepts and supports the interdependence of species conservation and the members' collective economic interests.

4. We strive to be proactive on issues affecting the lobster industry and are active in the management process at both the state and federal levels, advocating on behalf of our members and educating legislators and regulators on the practical realities of operating a lobster business.

5. MALA is one of several such voluntary trade associations in the New England area. We have about 1,800 members hailing from Canada to Maryland.

6. In my role, I work very closely with lobstermen and women, our members, and beyond. This helps me understand their needs as commercial fishers and businesspeople.

7. The Massachusetts lobster fisher is among the most proactive in terms of protecting the endangered whale population in the world.

8. In recent years, many lobstermen and women based in southern Massachusetts ports (particularly south of Cape Cod) have also seasonally fished for Jonah Crab. My understanding is that this prey species accounts for a significant portion of some of these fishers' annual revenue.

9. Massachusetts regulations surrounding lobstering are particularly conservative. For instance, Massachusetts requires the use of sinking ground lines year-round,¹ and a 600 lb. break-away link at the base of surface buoys.² In 2021, Massachusetts became the first jurisdiction in the nation to mandate the use of weak rope or weak contrivances (breaking at 1,700 lbs. or less); Massachusetts' move was soon followed by the federal government.³ Massachusetts fishermen are also limited in the buoy line rope diameter they can use: all buoy lines must be 3/8" or less.⁴ The Commonwealth also extended the seasonal closure of state waters to the New Hampshire

¹ 322 C.M.R. 12.06(3)(a).

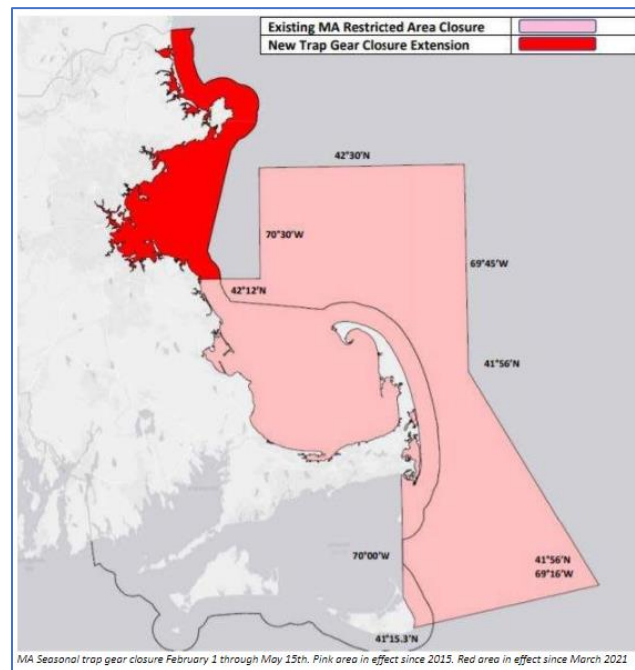
² 322 C.M.R. 12.06(2)(a) ("Weak Link Requirement").

³ 322 C.M.R. 12.06(2)(b) ("Buoy Line Breaking Contrivance").

⁴ 322 C.M.R. 12.06(2)(e) ("Restrictions on Buoy Line Diameters").

border, closing waters off the coast of the North Shore for the first time from February until at least April, and in some cases until May 15 of each year.⁵ In addition, speed limits and the seasonal three-month closure of the Massachusetts Bay Restricted Area dramatically reduce risk to North Atlantic Right Whales.⁶

10. The Massachusetts Bay Restricted Area (“MBRA”), described in 322 C.M.R. 12.04(2), represents the single most important conservation measure enacted anywhere in state or federal waters in the United States for the preservation of the North Atlantic Right Whale. That closure prevents all fixed gear trap/pot fishing in much of Massachusetts waters during the late winter and early spring months, when North Atlantic Right Whales are known to aggregate in waters off the coast of Massachusetts. The map below indicates the extent of the closure area: the dark red area of the map represents the 2021 addition to the traditional MBRA (shown here in light red).



⁵ 322 C.M.R. 12.04(2) (“Trap Haul-Out Period”).

⁶ *Id.*; see also 322 C.M.R. 12.05 (“Speed Restrictions to Protect North Atlantic Right Whales”).

11. MALA vigilantly promotes the conservation of whales and encourages its members to abide by existing regulations.

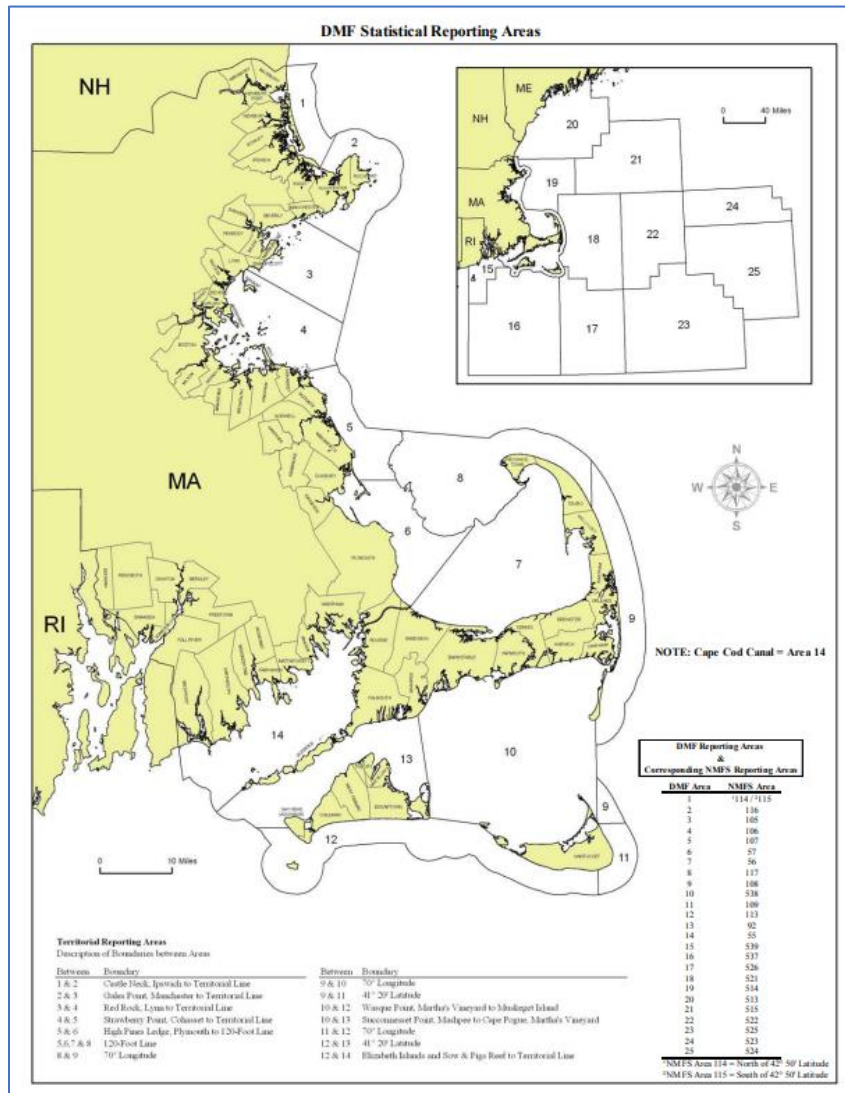
12. MALA's president, Arthur "Sooky" Sawyer, is a Massachusetts Marine Fisheries Advisory Commission member and was an active member of the Atlantic Large Whale Take Reduction Team ("TRT") for over 15 years. The Executive Director of MALA has held an active seat on the TRT since its inception in 1997 and has participated in the development of all Atlantic Large Whale Take Reduction Plans ("TRPs"). I, as a representative of MALA, am actively involved in the TRT, one of several take reduction teams established by NOAA's National Marine Fisheries Service ("NMFS") to help develop plans to mitigate the risk to marine mammals posed by fishing gear, including the promotion of measures to reduce potential risks to the right whale from commercial lobstering. I am also involved with the Massachusetts Ocean Advisory Commission, the Massachusetts ocean Acidification Advisory Commission, the New England Fisheries Management Council (specifically the Habitat and Herring Advisory Panels), Board member for the Lobster Foundation of Massachusetts, and Massachusetts Fisheries Advisory Board for Offshore Wind.

13. In 2020, the Massachusetts Division of Marine Fisheries reported that Massachusetts fishers landed 15,763,212 pounds of live American lobster, worth \$78,604,366.⁷ Fishers landed 8,649,738 pounds of Jonah crab in 2020, worth \$7,059,428. *Id.* In 2020, Lobster was the second most valuable target species landed in Massachusetts ports; Jonah crab was sixth. *Id.* There are an estimated 850 active commercial lobster permits issued in Massachusetts that

⁷ See Massachusetts Division of Marine Fisheries 2020 Annual Report at 28, accessed at: <https://www.mass.gov/doc/2020-dmf-annual-report/download>.

allow individual permit holders to engage in commercial lobster fishing. The vast majority of these vessels are owner operated status and are run as small businesses by individual lobstermen.

14. Massachusetts lobster fishers fish in state and federal waters. The map below depicts the Massachusetts Division of Marine Fisheries' Statistical Reporting Areas ("SRAs"). SRAs 1-14 are comprised primarily of state waters, while SRAs 15-25 are comprised primarily of federal waters.



15. Massachusetts fishermen can receive permits from both state and federal authorities. NMFS issues federal permits, which allow fishers to fish in federal waters.

Massachusetts Division of Marine Fisheries issues state permits, which allow fishers to fish in state waters. A fisher cannot legally fish without a permit: a fisher with only a state permit, for instance, would not be allowed to fish in federal waters. Many fishers are “dually permitted,” which means that they have permits from both state and federal authorities and can fish in both state and federal waters.

16. In addition, the Massachusetts lobster industry supplies restaurants and processing facilities which, in turn, employ thousands of workers.

17. The COVID-19 pandemic had a significant negative impact on the Massachusetts lobster industry. Most lobster is consumed in restaurants, rather than at home. The closure and subsequent decline in in-restaurant dining has reduced the demand for lobster and, as a result, the price for lobster has decreased.

18. The 2021 TRP Final Rule creates a new closure area south of Martha’s Vineyard and Nantucket. This is an area that has been fished by Massachusetts lobstermen for years, and is now also fished by lobstermen fishing for Jonah crab. I am aware of at least 35 Massachusetts commercial lobstermen who regularly fish in this area. To my knowledge, there have been no documented cases of a right whale being entangled in lobster fishing gear from this area in the past 10 years. The closure will have a negative economic impact on the fishers who rely on those waters for their income.

19. While Massachusetts regulations cap trap totals in certain regions and with respect to certain permits, in general, Massachusetts lobstermen can fish up to 800 traps. Most fishermen fish these traps in trawls of 20 traps.

20. I am aware of at least one instance of gear conflict causing the death of a fisherman.

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I DECLARE UNDER THE PENALTIES OF PERJURY OF THE LAWS OF THE UNITED STATES THAT THE FOREGOING IS TRUE AND CORRECT.

Dated: 2/17, 2022


Elizabeth Casoni