



## Massachusetts Lobstermen's Association

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March 21, 2022

Regional Administrator, Michael Pentony  
National Marine Fisheries Service,  
National Oceanic and Atmospheric Administration Commerce  
55 Great Republic Dr.  
Gloucester, MA 01933

Sent via: [nmfs.gar.efp@noaa.gov](mailto:nmfs.gar.efp@noaa.gov)

RE: Comments on Pioneers Ropeless Fishing EFP

Dear Mr. Pentony,

On behalf of its 1800 members, the Massachusetts Lobstermen's Association (MLA) respectfully submits this letter of great concern and unease on the Pioneers for a Thoughtful Co Existence Inc. request for a letter of authorization (Project) from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration to test the efficacy of "on demand access" fishing gear (also called "ropeless" fishing gear) in discreet areas within the federal and state waters of the Massachusetts Bay Restricted Area (MBRA) between February 1st, 2022 and May 15, 2022.

The Massachusetts Lobstermen's Association **DOES NOT SUPPORT** on demand access or ropeless fishing gear.

Established in 1963, the MLA is a member-driven organization that accepts and supports the interdependence of species conservation and the members' collective economic interests. The membership is comprised of fishermen from Maryland to Canada and encompasses a wide variety of gear types from fixed gear and mobile gear alike. The MLA continues to work conscientiously through the management process with the Division of Marine Fisheries, Atlantic States Marine Fisheries, Atlantic Large Whale Take Reduction Team, and the New England Fisheries Management Council to ensure the continued sustainability and profitability of the resources in which our commercial fishermen are engaged in.

Currently, there is a great misperception on what can and cannot be done in the real life scenario commercial trap/pot fishery when it comes to the use of ropeless fishing technologies to reduce interactions with right whales here in the Commonwealth. The MLA has raised many concerns over the last several years about the feasibility of ropeless fishing gear.

Whereas, the commercial lobster industry is not the only fixed gear fishery on the water and the unintended consequences of gear conflicts between the fixed gear and mobile gear fisheries is of great concern to the MLA. The fixed gear commercial fishing industry and mobile gear fishing industry do not fish in one hypothetical discreet box and these gear conflicts could be catastrophic.

This Project has a very limited number of fixed gear fishermen (claiming to be “*experts*”) that have been being paid to test/fishing this technology over the last several years. *“Each of the five (5) fishers will fish up to a maximum of ten (10) 20 pot trawls within pre-defined fishing areas in state and federal waters, absent of static vertical lines.” Administrator (2021, 15 December) Pioneers for a Thoughtful Co Existence Inc. to Massachusetts Division of Marine Fisheries, December 15, 2021 [Application]* In a real life fishing scenario for lobsters there are no pre-defined discreet areas leaving them vulnerable to a wide variety of fisher activities and mobile gear alike.

The Project is lacking any type of scientific data to be gained as these fishermen have already been using these technologies during the regular fishing season. The Application does not indicate that there will be an unbiased researcher onboard that can truly report back on the efficacy of these technologies. How is letting a handful of fishermen into the closure going to prove anything scientific?

Additionally, the Project is lacking participation from the mobile gear fleet and is not comparable to ANY real life fishing scenarios. Testing the ropeless fishing gear during the real life fishing season would truly show everyone how it works without testing it in a sterile environment.

In a Memorandum titled “Ropeless Fishing and the Opportunities and Challenges to Reduce Entanglement Risk” from Daniel McKiernan to the MA Marine Fisheries he stated that; *“This can cause damage to the gear, or worse jeopardize the safety of the crew. For example, a scallop boat towing a dredge could tow through a string of lobster traps. This will likely cause extensive*

*damage to the trawl and the drag, and if the scallop vessel becomes “hung up” on the gear it puts the vessel at risk of capsizing.” McKiernan, D. (2021, 22 January). Daniel McKiernan to Marine Fisheries Commission, January, 22 2021 [Memorandum]* Given that commercial fishing in the United States is the deadliest job already, why would any mobile gear want to be put in additional harm’s way given the uncertainty and risk?

Nowhere, in the Projects application does it clearly state that mobile gear can participate on the water in these discreet areas. It does however state that, *“Active and interested mobile gear fishers will be invited to view trials electronically.” Administrator (2021, 15 December) Pioneers for a Thoughtful Co Existence Inc. to Massachusetts Division of Marine Fisheries, December 15, 2021 [Application]* This is again a sterile environment that is being presented as a real life fishing scenario.

Additionally, the Memorandum titled “Ropeless Fishing and the Opportunities and Challenges to Reduce Entanglement Risk” from Daniel McKiernan to the MA Marine Fisheries raises even more concerns about; *“Using ropeless gear without closing the area to mobile gear fishing makes it more likely that gear conflicts will occur because competing fishermen would be unable to detect the presence of unmarked gear.” McKiernan, D. (2021, 22 January). Daniel McKiernan to Marine Fisheries Commission, January, 22 2021 [Memorandum]* This Application does not clearly indicate how mobile gear will be notified or excluded from these areas increasing the risk for gear conflicts.

Moreover, ropeless gear technologies are not commercially scalable to the commercial fishing industry as these technologies do not communicate with each other. Every fixed and mobile gear vessel would need to have complete access to see where and what gear is located on the bottom.

Just imagine if AT & T, Verizon, Singular, Sprint, and Metro PCS cellphones did not communicate with each other? The consumers would have to carry several phones to stay connected. This is the same for the ropeless technology; they do not communicate with each other; Desert Star, Edge Tech, Lobster Lift, Smelts and more, do not interact with each other so each commercial fisherman would have to have multiple boxes, screens, and transducers on their vessel to see where all the gear is on the bottom.

Moreover, the ropeless developers at a meeting held in late 2021 in Danvers by Homarus Strategies, stated they could not produce the volume of units needed to outfit the commercial fishing industry. There is nothing in the application that indicates purchasing any units and the Project is solely relying on the use of the current limited government gear cache. This Project lacks a sustainability metric for the long-term scalability leaving the MLA greatly concerned about the risk to the entire commercial lobster industry.

The Project raises great concern given the time of year and the high density of right whales being present in the MBRA here in the Commonwealth. Massachusetts is a leader in right whale conservation given the decades of conservation measures that have been implemented and yet, the right whale population wavers. Why should 5 fishermen or any number of fishermen risk the entire commercial lobster industry given the sensitivity of timing and the Commonwealths efforts in acquiring an Incidental Take Permit.

### **Massachusetts Right Whale Conservation Timeline**

1935- International ban on hunting whales goes into effect

1970- North Atlantic Right Whales listed as endangered

1996- NOAA implements the Large Whale Take Reduction Plan

1997-MA requirement for “breakaway” features in gillnets and trap/pot buoy lines

Seasonal ban in Cape Cod Bay for gillnets and on use of floating rope between pots

1997-Dedicated aerial surveys begin in Cape Cod Bay

2000- Year-round gear marking is implemented

2004 – Year-round ban on floating rope between traps in Cape Cod Bay

2007 - Year-round ban on use of floating rope between traps statewide

2014- MA Restricted Area is created – A three-month closure Feb-April to 3,071 sq. miles

2015 - 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area

2016 – 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area

2017 – 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area **PLUS** 4-day extension of the gear closure in Cape Cod Bay

2018 - 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area **PLUS** a 15-day extension of the gear closure and speed restriction (10 mph) for small vessels in Cape Cod Bay

2019- 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area

2020 - 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area and North Shore LMA1, MLA members deploy 700 coils of whale safe 1700lb weak red rope.

2021 – MFAC implemented 90% risk reduction conservation measures

2022 – NEW closure of North Shore waters between state waters closure and MBRA (MA is now at an estimate 92% risk reduction)

Currently, the Massachusetts commercial lobster industry employs thousands of individuals who earn their living on the sea. In 2020, the 661 active MA commercial lobstermen in State Waters (0-3 miles) harvested 9,263,534 lbs. with an ex-vessel value of \$43,298,377 and an overall estimated economic impact to the local economy of 180 million dollars while only fishing approximately 259,368 lobster pots.

Also, there are 65 active MA commercial lobstermen in Federal waters (3-200 miles) harvesting 7,489,941 lbs. with an ex-vessel value of \$35,008,487 and an overall economic impact to the local economy of 140 million dollars while only fishing 111,639 lobster pots. The total economic impact of the collective commercial lobster fleet in Massachusetts is upwards of 320 million dollars to the local economy.

The commercial lobster industry has complied with all of the management measures the DMF has aggressively enacted for right whale conservation over the last couple of years. These measures give right whales the ability to come and safely feed in the waters of the Commonwealth. The risk to the entire commercial lobster industry is too high to allow this Project to take place during the closure months (February, March, April) when there is a zero chance of an interaction between right whales and fixed gear, be it a trap/pot or a vessel.

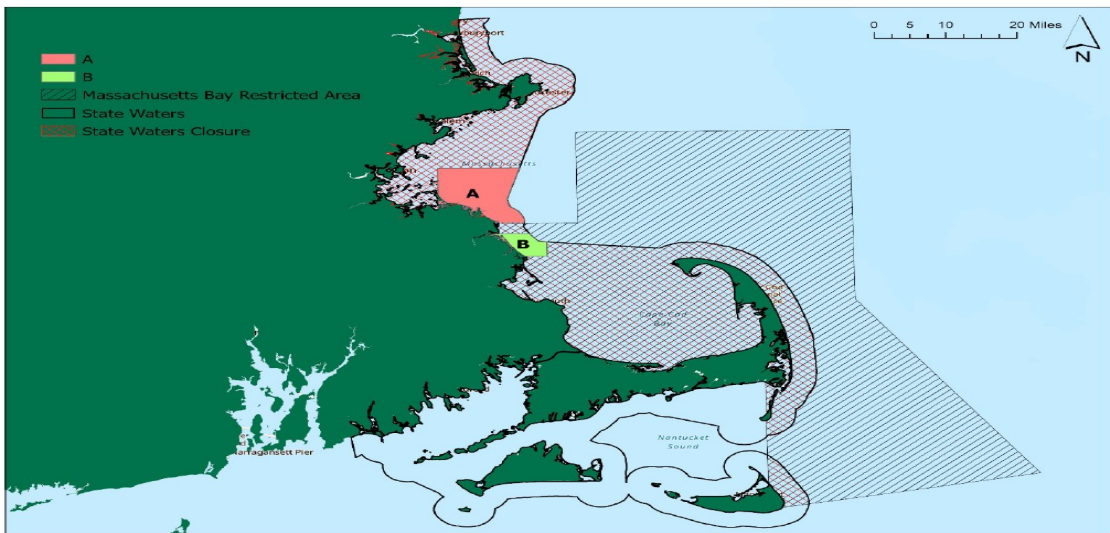
In a letter dated March 6, 2020, sent to NOAA Fisheries Regional Administrator, Michael Pentony by then DMF, Acting Director, Daniel McKiernan, stating that the DMF is; “*committed to developing a comprehensive strategy to reduce the risk of entanglement and serious injury and mortality to North Atlantic right whales that maintains a safe, efficient, and profitable lobster fishery in Massachusetts.*” McKiernan, D. (2020, 6 March). Daniel McKiernan to Michael Pentony, March 6, 2020 [Letter] The commercial lobster industry has worked closely with the DMF to develop and implement all of the conservation measure that are in place today. The MLAs view is that this Project will jeopardize not only the entire commercial lobster industry but also all of the DMFs risk reduction efforts. This Project gives NO assurances that there will be zero interactions with right whales and that is a risk the MLA cannot support.

The MLA is greatly concerned about the use of this technology during the time of year as storms come into the Northeast with violent winds and strong surges wreaking havoc on the ocean floor. The Nor'easter that came through in late 2021, caused a significant amount of gear to be lost and if any ropeless gear is lost it could create an opportunity for gear failure (release of buoy and vertical line) and potential negative interactions with right whales.

Again, this Project is not a real life fishing scenario and should be done during the real fishing season to see how well it interacts with 100% fishing effort from both mobile gear and the fixed gear sectors. The Project proposes that in state waters; *“Two research boats setting fully ropeless trawls and solely relying on electronic marking and verbal planning in an attempt to fish a structure or specific area gives a much better assessment of gear awareness without risk of gear conflict.” Administrator (2021, 15 December) Pioneers for a Thoughtful Co Existence Inc. to Massachusetts Division of Marine Fisheries, December 15, 2021 [Application]* Gear conflict is foreseeable in real life fishing scenarios and for these commercial lobstermen who are willing to risk the entire lobster industry is not supported by the MLA.

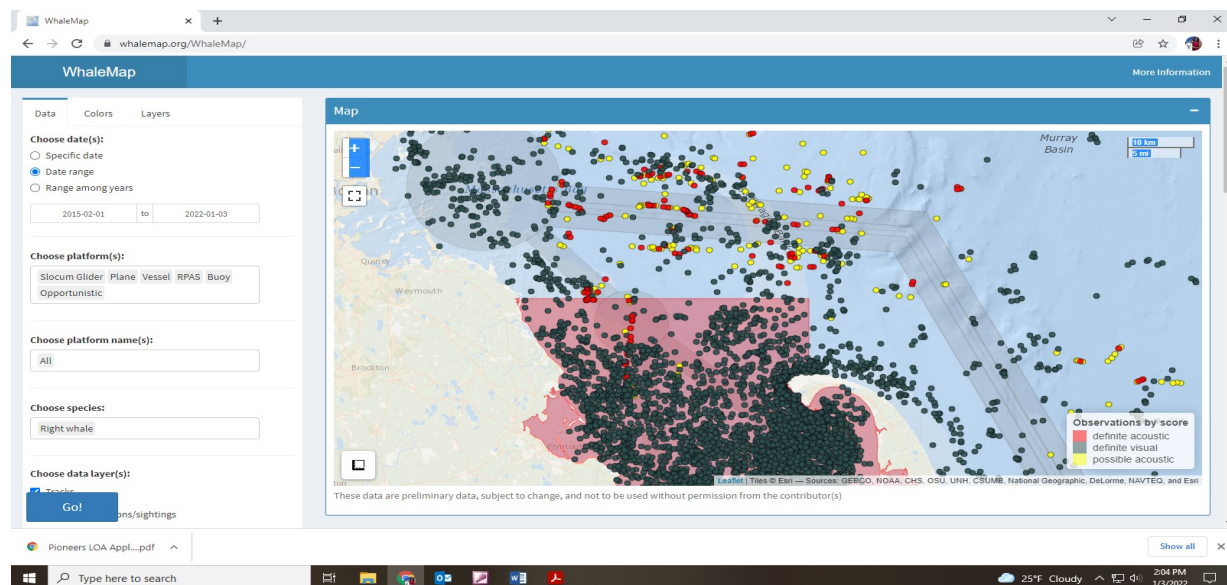
Moreover, the Project is still not clear on where all of these discreet areas will be as the Application notes that the, *“three remaining fishers are also permitted within Federal waters and will share the effort across boundaries determined by weather and other variables.” Administrator (2021, 15 December) Pioneers for a Thoughtful Co Existence Inc. to Massachusetts Division of Marine Fisheries, December 15, 2021 [Application]* There is an even greater concern as to where these areas will be, as vessels will be traveling to and from their home ports. This opens up even more opportunities for negative interactions with right whales during a time when they have the highest densities of right whales on the planet.

While it was clearly stated in the DMF letter to NOAA that the *“DMF is committed to permitting and promoting experimental ropeless fishing in areas and times that do not have a high risk of conflict with other fisheries and do not pose substantial risk of interactions with right whales.” McKiernan, D. (2020, 6 March). Daniel McKiernan to Michael Pentony, March 6, 2020 [Letter]* Which leaves the MLA greatly concerned about the location of the state water discreet areas given the historical right whales sightings data.



(Location The two proposed areas (map below) in State waters to conduct ropeless fishing trials are as follows; Area A: 42 23 N 42 12.2 N 70 53 W 70 40 (State contour) Area B: The waters contained within the area of the following boundaries: 42.10°N, - 42 05.4 N of territorial sea line (CCB Line) and west of 70 35 in State waters towards beach.)

Additionally, in the DMF letter to NOAA it clearly states that; “Approximately 65% of the known right whale population visits Cape Cod Bay each year. This is the largest known aggregation of North Atlantic Right whales in the world. In a single day in April 2017, a total of 179 right whales were observed in Cape Cod Bay. This represents a peak observed density of 10 right whales/cubic mile of water.” McKiernan, D. (2020, 6 March). Daniel McKiernan to Michael Pentony, March 6, 2020 [Letter] There does not appear to be enough evidence where the right whales never or could be visually documented to logically allow this Project to take place during the MBRA.

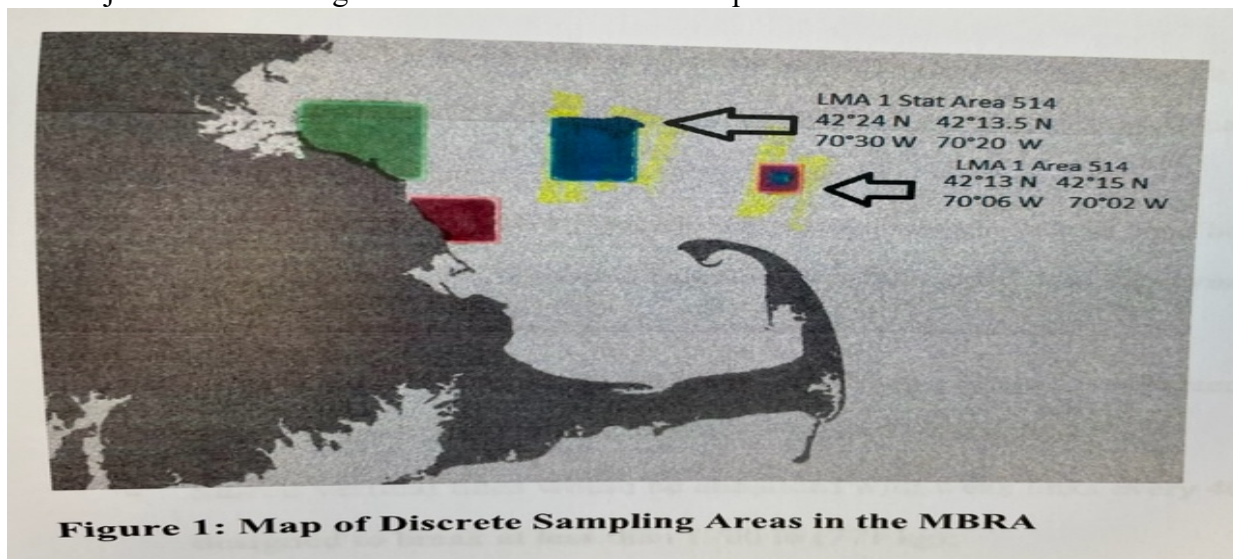


(Right Whales sighting data Feb.1, 2015 through January 3, 2022)

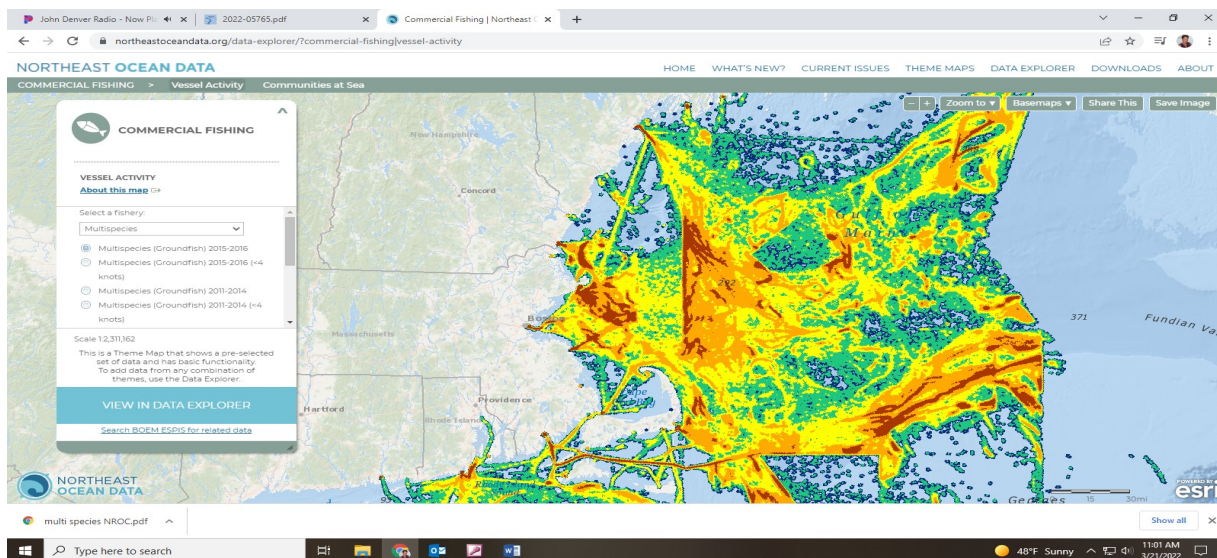


Given the historic high population density in the areas and seeing the historic sightings data depicted above clearly shows that the right whales are unpredictable everywhere and the risk is too high to allow this Project to take place during the MBRA closure. Adding more risk at a time when the commercial lobster industry is most vulnerable is inexcusable.

Furthermore, these discreet areas within federal waters the Project has proposed are anything but discreet. These discreet areas are located in highly fished areas for the mobile fleet that come to fish in the Gulf of Maine. The risk to the mobile gear fleet is high as they will have no way of being able to identify the unmarked gear on the bottom. Should there be a gear conflict between this Project and a mobile gear vessel it would be catastrophic.

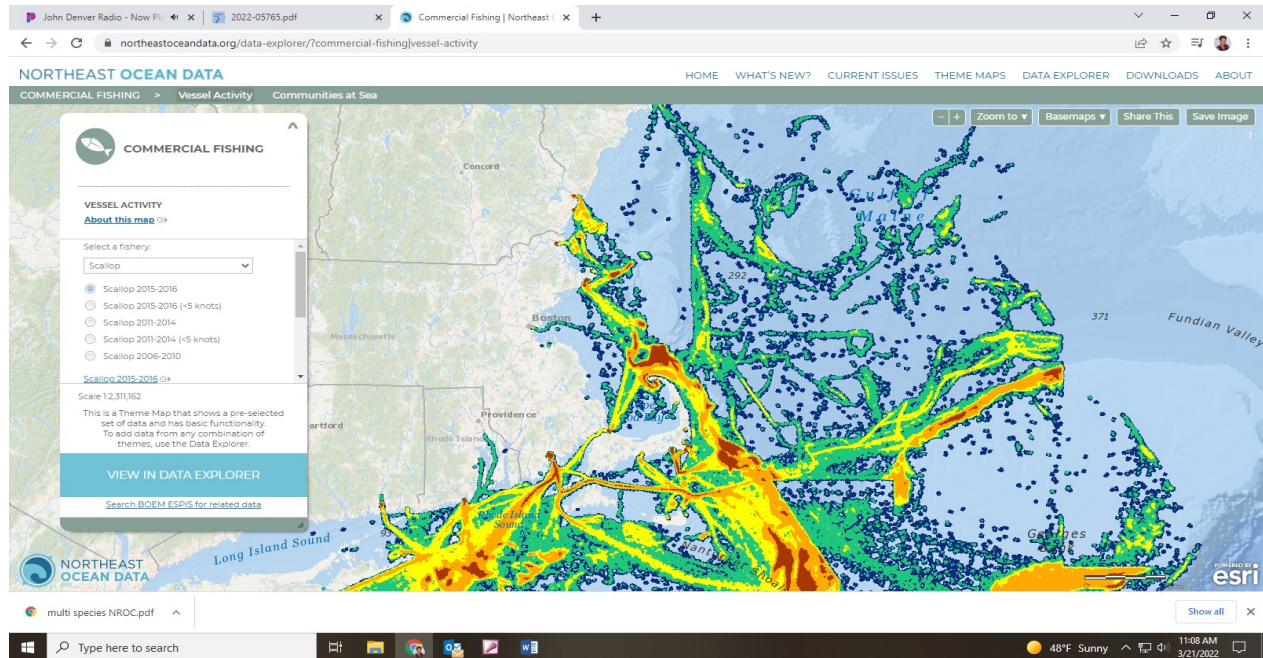


The Northeast Regional Ocean Portal data on the multispecies and scallop effort in the Projects proposed discreet areas in federal waters is high and this fleet needs to be included in the Project as the risk is high for a gear interaction between the two gear types.



(Multispecies effort 2015-2016\_ <https://northeastoceandata.org/data-explorer/?commercial-fishing/vessel-activity>





(Scallop effort 2015-2016) <https://northeastoceandata.org/data-explorer/?commercial-fishing/vessel-activity>

The risk to the mobile gear fleet has not been considered or addressed. Unless these discreet areas are going to be a no fishing zone for the mobile gear fleet, they need to be part of this application. The mobile gear fleet MUST be informed on where this unmarked gear is as well as be supplied the necessary devices to see the gear on the bottom.

In the Memorandum titled “Ropeless Fishing and the Opportunities and Challenges to Reduce Entanglement Risk” from Daniel McKiernan to the MA Marine Fisheries he clearly stated that; *the current cost of the devices is prohibitive for fishermen. Even more challenging, however, is fishermen and law enforcement do not have the ability to detect the presence of the gear on the ocean floor with sufficient resolution in the absence of buoys at the surface.*” McKiernan, D. (2021, 22 January). Daniel McKiernan to Marine Fisheries Commission, January, 22 2021 [Memorandum] This Project lacks any reporting, metric, or assurances on law enforcements ability to check the gear to ensure it is compliant. Will there be an officer onboard during the hauls to ensure this gear is compliant?

Lastly, the sheer magnitude of the economic undertaking would be well over 150 million dollars to outfit the commercial lobster industry here in the Commonwealth the first year. The individual cost would be an estimated \$190,000 per fisherman. While adding even more expenses to the commercial fleet with an average of 10% gear loss.

In closing, the Massachusetts Lobstermen's Association thanks you for the opportunity to comment and your thoughtful deliberation on our points of concern regarding this Project.

Sincerely,

*Beth Casoni*

MLA, Executive Director

Cc:

Sen. E. Warren

Sen. E. Markey

Cong. W. Keating

MA Coastal Caucus

MA Gov. C. Baker

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