



MAINE LOBSTERMEN'S ASSOCIATION UPDATE

Maine Lobstermen's Association

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Advocating for a sustainable lobster resource and the fishermen and communities that depend on it since 1954.

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BOARD OF DIRECTORS'
MEETING SCHEDULE
All meetings take place in
Belfast, unless otherwise
indicated.

July 10
5 p.m., Darby's restaurant,
Belfast

STEAMING AHEAD

One question related to the whale rules weighs heavily on lobstermen's minds these days: "Who is fighting for Maine lobstermen?"

As the Maine Lobstermen's Association executive director, I can say emphatically that the MLA is. So why doesn't it seem that way to many lobstermen?

In my opinion, it is because this issue is so complicated and the consequences potentially dire. In talking to Maine lobstermen, there is a strong sense that the process has been not been transparent and has been aimed at pushing Maine harvesters to shoulder unnecessary burdens. Simply put, lobstermen are being asked to make significant changes without any demonstration that the sacrifices they make would truly help reverse the right whale decline. They want someone to stand up and fight and tell the feds that enough is enough.

Believe me, I get it. I agree that this needs to be done. But we also need to ensure that our industry is prepared for the worst. If the National Marine Fisheries Service (NMFS) determines that the lobster fishery could jeopardize the recovery of right whales in the pending Biological Opinion, the fishery could be shut down. We've been told to expect a jeopardizing finding against the fishery. We've been told that NMFS will implement draconian measures if the fishery itself does not put forward a plan. Those are not rumors, those are facts.

It is the MLA's job to fight for lobstermen, and I take that role very seriously. But most importantly, it is the MLA's job to make sure that lobstermen are able to fish, to provide for their families and keep their communities alive. It is MLA's job to make sure that there is a fishery to pass on to the next generation. That is why we continue to participate in the process to identify whale conservation measures that can work for our fishermen. We want to be sure that Maine lobstermen have had input into those rules so that we maintain a viable fishery.

The situation is beyond frustrating and I hate knowing that many in the industry feel that the MLA has let them down while the MLA is fighting so hard for Maine lobstermen.

It doesn't feel like a fair fight. The environmental community's agenda is simple — save the right whales! They have the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA) on their side. Any permitted activity that has the potential to impact the species is subject to stringent regulations. Only one right whale can die each year from human-causes but right whale deaths attributed to entanglement on average exceed five per year. And they argue that ropeless fishing can provide a future in which right whales and lobstermen coexist.

The job for lobstermen is far more complex. While the fishing industry is committed to ensuring the recovery of right whales, we do not want to take on the burden of oppressive regulations when we do not believe we are responsible for the decline of the species. Lobstermen want to know that any changes they make will help right whales recover.

The MLA has argued that it's not our gear and asked why we are being asked to make such sweeping changes. The fact is that over the last five year less than 4% of known right whale serious injuries and mortalities due to entanglement were traced back to U.S. fisheries. There have been just two known cases back in the early 2000's when Maine lobster gear has been removed from right whales.

What complicates matters is that 74% of harmful entanglements are from fishing gear that cannot be traced to any particular fishery or country. It's just fishing rope. As you know, lobster gear fished in most of Maine state waters is exempt from gear marking, so we cannot prove that the unknown rope came from fisheries outside of Maine. We just don't have that information.

What about the gear that we do mark? According to NMFS, there have been three cases where rope with red marks has been recovered from entangled right whales (in 2011, 2012,

2016), indicating that it was part of the "Northeast trap/pot fishery." All three cases involved 3/8-inch rope. The whales in 2011 and 2016 were successfully disentangled (the gear from the 2016 case was traced to the Massachusetts lobster fishery) and both whales have been re-sighted healthy. The whale entangled in 2012 died as a result of its injuries.

These are the facts. This is what the available data tells.

Given the complexity of the issue, the MLA's strategy moves on two parallel tracks: 1) don't let the feds decide our future; and 2) continue the fight by challenging the interpretation of the facts, demanding accountability and improvements in the data.

In the "don't let the feds decide your future" category, lobstermen must recognize that the Maine lobster fishery, and in fact, all U.S. lobster fisheries, fall squarely in the crosshairs of two of our nation's most powerful federal laws: the ESA and the MMPA. Those laws have been in place since the 1970's and have only been strengthened. We cannot change those laws.

So we must come together as an industry to identify whale protection measures that will allow us to continue to fish. If we don't, either NMFS or a federal judge could decide for us. As painful as it is to pick your own poison, it is far riskier to let someone from outside the fishery pick it for us.

Case in point: in 2014 Maine put forward a plan to trawl up our gear to reduce our vertical lines by 30%. NMFS implemented this plan. Massachusetts, on the other hand, refused to put forward a plan — they said they had done enough to protect whales and their gear was not the problem. The result? NMFS decided for them and implemented a five-month closure. This took place *before* scientists realized the right whale population was in decline.

The MLA does not believe that Maine lobstermen are responsible for the right whale decline and it has vigorously pointed to the multiple other causes of harm to whales. I can assure you that every TRT member, resource manager, and member of our Congressional delegation understands that. But we also understand the laws. If Maine fails to meet the requirements of the law, we are at risk of NMFS implementing whale conservation measures for us. If for some reason NMFS fails to do it, the courts could step in with a mandated remedy. NMFS has talked about taking traps away and looking to Canada as a model for our fishery. For reference, trap limits in Canada range from 250 to 375 traps. The MLA knows that Maine lobstermen do not want to give up traps or face short fishing seasons. That is why drafting a strategy to remove half of our vertical lines from the water — and removing them on our own terms — is a prudent part of this process.

A real challenge is to better position our industry for what comes next. If right whales do not show signs of recovery in the next five years, then what? We can't sit back and watch our industry die a death by a thousand cuts. We need to prove once and for all whether Maine lobster gear is harming whales.

That is why the MLA strongly supports unique and expanded gear marking of our vertical lines. Maine must be able to differentiate its gear from that fished in other lobster fisheries so we can prove the extent to which Maine lobster gear *is* or *is not* involved in the right whale decline. The MLA supports marking Maine lobster gear to the beach because we cannot afford to have any question about whether the gear came from Maine. Remember, nearly three-fourths of the rope that is killing and harming whales cannot be traced to where it was set. The MLA supports marking lengtheners because we must ensure that a gear mark can be found if rope is removed from a whale. If we don't have enough marks on the gear, then why bother?

The MLA also continues to challenge the interpretation of the data and demand accountability from the government. First, we gathered the facts. It is the MLA that painstakingly collected all of the entanglement, serious injury and

Continued on next page



MAINE LOBSTERMEN'S ASSOCIATION UPDATE

mortality data from NMFS to show that Maine gear has only been confirmed in two entanglements. It is the MLA that dug into the serious injury and mortality data to show that U.S. gear has only been identified in two cases since 2010, while the Canadian snow crab fishery has accounted for eight since 2016. It is the MLA that met with the delegation in September 2018 and April 2019 to raise our strong concerns and demand accountability from the government on the severity of regulations to be imposed on Maine lobstermen. It is the MLA that remains in close contact with the delegation, keeping them fully apprised of our situation.

The MLA has steadily challenged NMFS every step of the way on the current regulatory process. We have argued that the methodology NMFS used to set the risk reduction goal is faulty, and we continue to press that issue. The MLA is pushing for a peer review of the newly developed decision support tool (a computer model) to ensure it can credibly assess the risks of fishery and whale interactions before it is used to estimate the conservation benefit of proposed regulations. The MLA consistently has demanded that Canada be held responsible for its role in the right whale decline, given that so many right whale deaths have occurred in the Gulf of St. Lawrence. With six more deaths recorded in Canada so far this year, this issue remains more important than ever.

In 2018, the MLA intervened in the court case brought forward by five environmental groups seeking more stringent whale regulations such as ropeless fishing. The MLA has a lawyer on retainer advising us throughout this process and ensuring that the lobster industry has a voice in any management actions that could be contemplated by the court. The MLA continues to fight against ropeless fishing and mandatory closures and for lobstermen to have a voice in how our fishery is regulated.

To that end, the MLA held seven industry meetings in 2018 to educate lobstermen and prepare for these emerging whale rules. We have participated in research efforts to test strength of endlines, determine safe working loads for our boats and collect data on ropes and gear configurations used in the fishery. The MLA developed materials to educate the public about the robust recovery right whales previously had been experiencing as a result of the whale conservation measures put in place by Maine lobstermen.

And the MLA continues to advocate for better information on where the whales actually are. The MLA has highlighted the need to develop a viable technology to successfully tag right whales and to fund adequate monitoring of right whales in U.S. waters through aerial and acoustic surveys.

It's a long list, isn't it? Yet I know that many who read these pages will think that it is not enough simply because NMFS is continuing its mandated process under the ESA and MMPA. Federal law is like the tide -- when it starts to roll in it can overwhelm anything in its path. But there are things you can do if you use every tool at your disposal to lessen the harm that could happen, pull your allies together, and fight like hell against the unjust and the unfair. That is what the MLA is doing.

And as always, stay safe on the water.

Patrice

MLA JULY DIRECTORS MEETING SUMMARY

The June Board of Directors meeting took place at the Maine Maritime Museum. President Kristan Porter thanked the museum staff for hosting the MLA.

Antonina Pelletier is working on the 2020 membership campaign. Business renewals have gone out and harvester renewals will be mailed in late June or July. The MLA will have a booth at three lobster boat races this season — Stonington, Winter Harbor and Long Island — and has donated swag as prizes to all of the lobster boat races. Antonina is working on a promotion with Heiniken beer through which a portion of certain sales will be donated to the Maine Lobstermen's Community Alliance (MLCA). She is also working to organize the annual MLCA Relief Fund event at Cook's Lobster in September.



Lobstermen listened intently at the Zone G Lobster Council meeting in June. MLA photo.

MLA Board members commented on the lobster season thus far, noting that it had been a slow spring for everyone. The water is cold and landings have been slow. Many lobstermen have left their boats ashore longer than usual and waited to set gear. Fewer traps have been set than at this time in previous years. Lobstermen are concerned because the lobster price dropped despite weak spring landings. There have not yet been any bait shortages reported. Bait prices are highly variable. Last year's supply of salted product is priced

well but quality may be an issue; quotes for fresh product are coming in very high so lobstermen are seeking alternatives. There are reports of lobstermen buying bait ahead in anticipation of a bait shortage later this season. Some have bought their own freezers to put up bait. Others have purchased hide bait to put in storage.

The MLA board continued its discussion on aquaculture. There is growing concern over the volume of aquaculture applications and leases moving through DMR, however lobstermen are most concerned about the siting of aquaculture leases greater than 10 acres in size. Given the new whale rules that lobstermen will be facing, there is concern about allowing the aquaculture industry to add more vertical lines in the water. The board expressed a need to control the growth of Maine's aquaculture industry. The MLA has been in touch with DMR staff and the Maine Aquaculture Association about getting lobstermen more involved in the process. The MLA will reach out to DMR to start an educational series in Landings on how lobstermen can most effectively engage in the process. Some board members pointed out that many lobstermen are actually diversifying into aquaculture, which is a very good fit in many communities.

Patrice provided an update on bills before the Legislature. The session is scheduled to end on June 19. Bills that have passed include a bill to clarify how the temporary medical allowance works, a bill for a pilot program to allow Gray Zone lobstermen to fish 24 hours during September and October; a bill to allow Class III license holders to take up to four unlicensed crewmembers; a bill to prohibit offshore oil and natural gas drilling; a bill to allow Monhegan student license holders to fish during the closed season; the Governor's Climate Change bill; and a bill directing the Public Utilities Commission to approve a long-term contract with Maine AquaVentus for energy and capacity. The lobster waiting list bill was carried over to the next session so it will be discussed again in January 2020.

The MLA Board discussed the development of Maine's whale plan at length. The MLA met with the delegation in April to raise concerns over the development of the whale rules. The delegation sent a letter to the Department of Commerce in May stating its concerns about the impact of the whale rules on Maine and seeking accountability from NMFS.

The MLA is attending all of the DMR meetings with the Lobster Advisory Council and in each zone council to listen to industry concerns and feedback on DMR's strawman whale plan proposals. Maine has crafted several alternatives, which include trap limits of 800, 600 and 400 combined with trawling up scenarios that set minimum traps per trap from 0 to 3 miles; 3 to 12 miles; and 12+ miles. The state's proposals include a ¼ mile buffer zone in and around all land and islands in Maine state waters, which would be exempt from any trawling up minimums. DMR stressed that these proposals are a starting point and welcome feedback from the industry. Lobstermen can comment on a statewide plan or bring ideas forward to create a plan on a zone-by-zone basis. Lobstermen must get any proposals to DMR by July 15 so they can be analyzed before DMR's next round of meetings in August.

The DMR has stated that Maine will move forward with unique gear marking in 2020 in order to build a stronger case that Maine lobster gear is not involved in right whale entanglements. The state also is moving forward with 100% harvester reporting for all lobstermen and vessel tracking for federal lobster boats.

The MLA board has strong concerns over the draft proposals put forward by DMR. The Board is concerned about smaller vessels going to quads in state waters, offshore boats going to 30's or 40's, and many strongly opposed trap limits. There is also a strong concern about the potential for offshore boats to shift long trawls closer to shore which would put many in the inshore fleet at risk. Additional alternatives must be developed. While a zone-by-zone approach may generate better ideas for local areas, there is concern about how this concept will work on a statewide basis.

The Maine Lobster Marketing Collaborative (MLMC) is developing a proactive campaign to deal with the media in regard to the Maine lobster fishery and pending whale rules. The MLMC will highlight Maine's strong track record of sustainable management, which includes protections for whales, and emphasize protecting the economic viability of Maine's fishing communities as new whale rules are developed. The MLA will hold its next meeting on Wednesday, July 10 at 5 p.m. at Darby's.

NEFMC APPROVES DEEPER HERRING CUTS IN 2020

The New England Fishery Management Council (NEFMC) approved changes to the herring management plan that lower the quota for 2020 and 2021 and redefines overfishing to be more consistent with the 2018 benchmark herring stock assessment. The Annual Catch Limit (ACL) for 2019 is 15,065 metric tons (mt) and 11,571 mt for 2020 and 2021. However, the 2021 specifications likely will be revisited following a new stock assessment that is scheduled to take place in 2020. The 2019 ACL is already in place through a NMFS in-season adjustment.

Although provisions are in place to allow for the carryover of unharvested catch from one year to the next by up to 10% of an area's sub-ACL, the Council

Continued on page 8



MAINE LOBSTERMEN'S ASSOCIATION UPDATE

MLA continued from page 7

voted to “temporarily prohibit carryovers” for 2020 and 2021 given the current condition of the resource.

The Council voted to set Overfishing Limit (OFL) and Acceptable Biological Catch (ABC) based on the ABC control rule proposed in Amendment 8 while using the original projections made by its Scientific and Statistical Committee. This was referred to as “Alternative 2 Original” in the draft framework.

2019-2021 Atlantic Herring Specifications (in Metric Tons)			
Specification	2019	2020	2021
Overfishing Limit (OFL)	30,668	41,830	69,064
Acceptable Biological Catch (ABC)	21,266	16,131	16,131
Management Uncertainty	6,200	4,560	4,560
Optimum Yield / Annual Catch Limit (OY/ACL)	15,065*	11,571*	11,571*
Domestic Annual Harvest	15,065	11,571	11,571
Border Transfer	0	100	100
Domestic Annual Processing	15,065	11,471	11,471
U.S. At-Sea Processing	0	0	0
Area 1A Sub-ACL (28.9%)	4,354	3,344	3,344
Area 1B Sub-ACL (4.3%)	647	498	498
Area 2 Sub-ACL (27.8%)	4,188	3,217	3,217
Area 3 Sub-ACL (39%)	5,876	4,513	4,513
Fixed Gear Set-Aside	39	30	30
Research Set-Aside as % of Sub-ACLs	3%	3%	3%

* If the New Brunswick weir fishery catch through October 1 is less than the associated “trigger,” then 1,000 mt of the management uncertainty buffer will be added to the Area 1A sub-ACL.

The Council set the management uncertainty buffer, which is the between ABC and the Annual Catch Limit (ACL), and is factored into specifications to help ensure that the ABC is not exceeded due to Canadian catch in the New Brunswick weir fishery. Management uncertainty previously was set at 6,200 mt. This time, the Council supported using a 10-year average of Canadian catches, which resulted in an uncertainty buffer of 4,560 mt. If the New Brunswick weir catch through October 1 is less than the 4,000-mt trigger in 2019 or the 2,942-mt trigger in 2020 and 2021, then 1,000 mt will be subtracted from the buffer and added to Area 1A.

The Council set the border transfer figure, which applies to fish caught in Area 1A by U.S. fishermen then transferred to Canada via a Canadian carrier and which must be used for human consumption. Until 2019, the border transfer allocation was set at 4,000 mt annually. In 2019, however, it was zero. For 2020 and 2021, the Council voted to set it at 100 mt. The specification has not been utilized in recent years.

The Council set the specific management area sub-ACLs, keeping the same spatial percentage splits for the available quota: Area 1A-28.9%; Area 1B-4.3%; Area 2-27.8%; and Area 3-39%. The Council also kept the same Area 1 seasonal splits: Area 1A January through May-0%; Area 1A June through December-100%; Area 1B January through April-0%; Area 1B May through December-100%.

The Council’s changes to the herring management plan must be approved by the NMFS before it is implemented. The target implementation date is January 1, 2020, the start of the new fishing year for Atlantic herring.

The Council maintained the current 2019 river herring and shad catch caps for 2020 and 2021 in Framework 6, with the Gulf of Maine midwater trawl limit set at 76.7 mt, Cape Cod midwater trawl limit set at 32.4 mt, the southern New England and Mid-Atlantic midwater trawl limit set at 129.6 mt, and the southern New England and Mid-Atlantic bottom trawl set at 122.3 met.

2019 Atlantic Herring Landings Data through June 27, 2019				
Area	Quota 2019	% 2019 Quota Landed YTD	Cumulative Catch 2019 YTD	Landings at this time last year
1A*	4,184	0%	0	3,247
1B	628	0%	0	0
2	4,062	116%	4,721	6,674
3	5,700	20%	1,122	1,178
Total	14,574	40%	5,844	11,099

MAINE LOBSTER MARKETING COLLABORATIVE

The MLMC Board met on June 11 in Rockland. MLA executive director Patrice McCarron attended the meeting. The MLMC is developing a strategy for a communications plan around the Maine lobster industry’s proactive approach to minimize negative interactions with right whales. Weber Shandwick, the MLMC’s public relations firm, is managing this work.

Weber Shandwick proposed a series of initiatives including the development of a centralized hub for information to allow the industry and reporters access the most up-to-date information on the issue and pending management actions. They will produce new content, such as videos, that showcase lobstermen’s whale protection efforts to date, fact sheets and infographics to illustrate the Maine lobster industry’s long track record of whale protection actions.

The MLMC board also discussed its presence at Seafood Expo Northeast (SENA, formerly Boston Seafood Show). MLMC engaged in a digital marketing campaign related to the show to drive people to its website through which they can engage with Maine lobster dealers. The MLMC focused on content creation which is now available through a creative content hub. Maine lobster dealers and industry members can register to take advantage of all of these materials.

The MLMC is promoting Maine new shell lobster through the creation of “new shell wait list.” Those who enter will find out when Maine new shell hits the market and be eligible for a Downeast vacation giveaway. This program is generating a lot of interest. They are also working to trademark “New Shell Lobster.”

DMR ZONE COUNCIL WHALE MEETINGS

During June, DMR Commissioner Pat Keliher led a series of whale meetings with each zone council and the Lobster Advisory Council to discuss options for Maine as new federal whale rules develop. Several of DMR’s senior staff on both the science and policy side were in attendance at each meeting. MLA’s executive director, Patrice McCarron, attended all of these meetings to monitor the conversation and listen to feedback from lobstermen across the state. The meetings were well attended, ranging from 85 to over 300 people at each meeting.

At each meeting, the Commissioner presented an overview of federal laws (Endangered Species Act and Marine Mammal Protection Act) driving the need for additional whale rules. Maine has committed to removing 50% of its vertical lines from the water and adding weak rope to endlines in federal waters to meet the federal government’s mandate to reduce risk to whales by 60%. DMR outlined several “strawman” proposals for the industry to consider. These proposals considered a range of trap limits ranging from 800 to 400, combined with minimum trawling up limits by distance from shore (0 to 3 miles, 3 to 12 miles, and 12+ miles).

Maine will also implement a unique gear marking program to differentiate Maine gear from all other areas, and implement vessel tracking on federal vessels and 100% reporting for all harvesters. It is hoped that this will insulate Maine from future regulations by showing the magnitude and location of Maine’s lobstering effort throughout the year and ensuring that Maine gear is uniquely marked so we will know for sure if it is found to interact with a whale.

DMR has given each zone council the opportunity to generate its own alternatives to reach the risk reduction goal, and to meet with DMR scientists to run various proposals. This work must be complete by July 15 as DMR plans to hold a second round of zone council meetings in August to review these results and narrow down potential options.

GOVERNOR SIGNS OFFSHORE WIND, CLIMATE CHANGE BILLS

Governor Mills signed LD 994 on June 19, a resolve to require the Public Utilities Commissioner to approve a long-term contract for the Maine AquaVentus wind project proposed off Monhegan Island. The MLA opposed this bill due to its long-standing concerns that ocean energy development is not in the long-term interest of the state of Maine or our fishermen. In addition, the Governor signed on to participate with Massachusetts and New Hampshire in a Gulf of Maine Intergovernmental Regional Task Force on offshore wind. She also will create the Maine Offshore Wind Initiative. This will be a state-based program to identify opportunities for offshore wind development in the Gulf of Maine and to determine how Maine can position itself to benefit from future offshore wind projects.

Gov. Mills also moved to establish the Maine Climate Change Council to develop a climate plan for Maine to mitigate, prepare and adapt to climate change. The bill establishes greenhouse gas emission reduction goals (45% by 2030 and 80% by 2050 below 1990 levels) and includes development of a clean energy economy transition plan. The MLA testified neither for nor against this bill, citing the wide range of views among lobstermen on climate change and the fear that poorly-planned climate change solutions could be very costly to small businesses, like lobstering, while offering little reward.