

The Honorable Hal Rogers
Chair
Subcommittee on Commerce, Justice,
Science, and Related Agencies
U.S. House Committee on Appropriations
Washington, D.C. 20515

The Honorable Matt Cartwright
Ranking Member
Subcommittee on Commerce, Justice,
Science, and Related Agencies
U.S. House Committee on Appropriations
Washington, D.C. 20515

The Honorable Jeanne Shaheen
Chair
Subcommittee on Commerce, Justice,
Science, and Related Agencies U.S.
U.S. Senate Committee on Appropriations
Washington, D.C. 20510

The Honorable Jerry Moran
Ranking Member
Subcommittee on Commerce, Justice,
Science, and Related Agencies
U.S. Senate Committee on Appropriations
Washington, D.C. 20510

March 24, 2023

Re: Critical FY24 Funding for North Atlantic Right Whale Conservation

Dear Chairs Rogers and Shaheen and Ranking Members Cartwright and Moran:

On behalf of our millions of members and supporters nationwide, we urge you to provide appropriations for fiscal year 2024 (FY24) that are necessary to sustain and build upon ongoing conservation activities for the critically endangered North Atlantic right whale. Accordingly, we request that the Conservation and Mitigation Assistance Grant Program (Grant Program) authorized in the Consolidated Appropriations Act, 2023 be fully funded at \$50 million in FY24. Further, we recommend no less than \$37.3 million to support NOAA Fisheries' ongoing North Atlantic right whale conservation efforts. In addition, we support \$14 million to facilitate compliance with existing conservation requirements applicable to, and the ongoing transition of, the Atlantic lobster and Jonah crab fishery. These priorities for funding are itemized in further detail below.

With only about 340 North Atlantic right whales left as of 2021, and of those fewer than 70 reproductive females, the future of the right whale is in jeopardy. Without additional robust investments in efforts to reduce right whale deaths and serious injuries dramatically, the best scientific information available makes clear that the species is at real risk of extinction. Continued Congressional funding can renew hope for the survival of this species.

Conservation and Mitigation Assistance Grant Program

As you know, the Consolidated Appropriations Act, 2023 authorized a grant program for fiscal years 2023 (FY23) through 2032 to provide competitive financial assistance, on an annual basis, for projects designed to reduce the lethal and sub-lethal effects of human activities on North Atlantic right whales. In authorizing the program, Congress advised that a large majority—\$40 million— of this authorized funding should go toward innovative gear

deployment and technology. Notwithstanding these authorization levels, FY23 appropriations provided \$20 million for the Grant Program. It is essential that on-demand fishing technologies be made commercially achievable in the New England lobster and Jonah crab fishery as soon as possible, and so we urge the Committees to appropriate funding for this grant program at levels consistent with the underlying authorization. To the extent appropriations are unable to meet amounts authorized for the Grant Program, we strongly encourage the Committees to continue to ensure that a significant majority of the overall grants go toward the maturity of on-demand fishing technologies. Such appropriations should not be made to expire and should remain available to account for variations inherent in the research and development process of such technologies.

Applicable Funding for NOAA Fisheries

In the months since the enactment of the Consolidated Appropriations Act, 2023, the state of the North Atlantic right whale population has become even more precarious. There have been a series of observed mortalities and injuries, including four confirmed cases of sublethal injury in 2023 from entanglement in fishing gear. There have also been two confirmed deaths, one vessel strike and one death of a newly-born calf. Most recently, a 20-year-old male was struck by a vessel near Virginia Beach, where hundreds of boats were found to be speeding in designated slow zones in the weeks before the collision. Mere days prior, an aerial survey sighted an entangled 8-year old female south of Massachusetts. Entanglement response teams were not able to reach the whale before sunset, and the whale has not been spotted since. These estimates from NOAA Fisheries represent a minimum of this year's take since research indicates that a large portion of deaths and injuries go unobserved.

In consideration of this, it is critical that NOAA Fisheries continue to have robust funding for its various North Atlantic right whale conservation activities, which is why we support at least \$37 million for fiscal year 2024 under Marine Mammals, Sea Turtles, and Other Species, as well as \$300,000 to conduct a Continuous Plankton Survey under Fisheries Data Collections, Surveys, and Assessments. For the Committees' convenience we have developed as an annex to this letter a detailed spend plan for these lines of funding.

Of particular need for funding is the full commercialization of on-demand fishing technologies. There are several threshold areas of innovation, development, research, and testing that need to be addressed to achieve this goal. These include resolving gear conflict among fixed-gear fishermen and between fixed-gear and mobile fishermen in high density fishing locations through the development and adoption of on-demand devices that rely on acoustic-based location marking to locate gear on the seafloor. A second important area that demands NOAA Fisheries' attention is ensuring on-demand gear is interoperable- that is, able to communicate with systems from different manufacturers. This would allow each fishing and enforcement vessel to be outfitted with one single transducer and receiver capable of detecting and reporting the location of every on-demand device on the seafloor, regardless of the manufacturer. Currently, manufacturers are developing proprietary systems that are designed to detect only their own on-demand systems. Third, NOAA Fisheries must continue

to invest in a universal cloud database that can store and disseminate real-time locations of deployed on-demand fishing gear to approaching and passing fishing vessels and for enforcement purposes. Finally, NOAA Fisheries must ramp up and increase the scale of on-demand fishing experiments. As with the resources provided through the Grant Program, NOAA must prioritize the continued development of on-demand fishing technologies when allocating applicable North Atlantic right whale conservation funding.

Fishery-specific Assistance

We acknowledge the Committees' efforts to mitigate impacts to the lobster and Jonah crab fishery on its path toward coexistence with the North Atlantic right whale, much of which has been focused on implementation of and compliance with the final 2021 rule to modify the Atlantic Large Whale Take Reduction Plan (ALWTRP) (FR-210827-0171). Moving forward, we would encourage the Committees to broaden their focus to assisting the fishery with its transition to use of on-demand fishing systems, in anticipation of future regulatory structures and requirements that will move away from traditional fishing methods. Thoughtful investments in this space now will pay dividends for the future of this important fishery.

Vessel Strike Assistance

Vessel strikes are also one of the major threats to the recovery of the North Atlantic right whales. The best scientific information available indicates speeds of 10 knots or below reduce the risk of struck North Atlantic whales dying by approximately 80 to 90%, a legal necessity. Accordingly, NOAA Fisheries has proposed new vessel speed regulations in 2022 to minimise lethal collisions between vessels and right whales. The Committees prioritized the risk of vessel strikes to marine mammals in the past by urging NOAA Fisheries to continue to develop risk reduction measures in report language in the FY23 Appropriations package. This fiscal year, we recommend that the Committees ensure NOAA Fisheries has the resources to implement and enforce this pending rulemaking adequately and expeditiously. Reducing the risk of vessel strikes through a robust vessel speed rule is key for the survival of the species.

Conclusion

We appreciate the opportunity to share our views on this important and challenging issue. Moving forward, we hope the Committees will allow science-based conservation of the North Atlantic right whale to take its course. As part of this, robust and full funding of innovation and management needs to mitigate interactions between the North Atlantic right whale and important human activities is crucial to ensuring both of our species can coexist and thrive. Thank you for your attention to this issue.

Sincerely,

Animal Welfare Institute

Association of Zoos and Aquariums

Born Free USA

Center for Biological Diversity

Conservation Law Foundation

Earthjustice

Environment America

Environmental Investigation Agency

Howling for Wolves

Inland Ocean Coalition

**International Marine Mammal Project of
Earth Island Institute**

Mystic Aquarium

New England Aquarium

**North Central Washington Audubon
Society**

Oceana

The Ocean Project

The Pew Charitable Trusts

Resource Renewal Institute

Turtle Island Restoration Network

Buffalo Field Campaign

Cetacean Society International

Defenders of Wildlife

Endangered Species Coalition

Environmental Education Fund

FOUR PAWS USA

Humane Action Pittsburgh

International Fund for Animal Welfare

Marine Conservation Institute

Natural Resources Defense Council

New Hampshire Audubon

NY4WHALES

Ocean Alliance

Oceanic Preservation Society

Predator Defense

Sierra Club

World Wildlife Fund