WALKING THE TIGHTROPE OF SURVIVAL

By John Sackton

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There is a path through this, but it is like staying on a tightrope, with the slightest mistake causing a disastrous fall.

The issue is not a decline in price. We have lived with volatility before. The issue is how to adjust to structural changes where some distributors estimate 20% to 40% of their foodservice customers will never reopen, and more and more companies try and put seafood through the retail channel.

The second issue is to avoid outcomes that permanently devalue a product. The poster child for this is lobster. If the season becomes chaotic with prices dropping to the point where harvesters will no longer fish, the result is likely to be a devaluation of lobster that lasts for years. This is what falling off the tightrope would look like, for those who managed to survive.

Of all the primary U.S. seafood items, the lobster industry probably has the most difficult path.

The reason is that first, it is huge. Around 300 million pounds of lobster will be landed by U.S. and Canadian lobstermen in a normal season. With the changes wrought by the U.S. tariff war with China, Canada has become less dependent on the live market in the U.S., and more dependent on China. Meanwhile, lobster in Maine is more dependent on the U.S.

The Chinese will take live lobster at the right price. The bottleneck is cargo capacity. Already there are a total of six to seven charter flights a week leaving from Halifax and Moncton, and freight costs are double that of a year ago. There is no way to ramp up cargo capacity to match the potential volume of live lobsters coming ashore once the seasons open up. In the past, it was passenger airline capacity that moved most lobsters to the U.S., Asia and Europe. That does not exist at the moment, and no analysts expect air travel to rebound quickly.

Frozen lobster is in a more precarious position. Some frozen lobster, especially whole cooked, will go to China and elsewhere in Asia. But the bulk of the product goes to the foodservice, casino, and the cruise ship industry... all of which are largely shut down. As one producer said, even if I can sell small tails to retailers for promotion, what am I going to do with the claws... the meat industry is all foodservice.

The only path for lobster is for production to be drastically cut. If you don’t, you’ll put a considerable number of people out of work. Federal control of these magnificent fisheries is not going to be approved by this senator.

As the man who controlled the purse strings, Stevens, an iconic World War II veteran known to Alaskans as “Uncle Ted,” was arguably the country’s most powerful senator and couldn’t be ignored.

“Uncertain times in the lobster world.
What to say?
Maine’s lobster industry has taken some serious hits in the past month which are explored in more detail in this issue of Landings. A world-wide pandemic brought seafood sales by large food suppliers to a screeching halt. And a federal judge declared that the National Marine Fisheries Service (NMFS) had violated the Endangered Species Act (ESA) in its failure to issue an incidental take statement to mitigate the lobster fishery’s potential to harm the endangered Atlantic right whale. As lobstermen wrestle with an altered economic situation, they wonder what will become of the fishery as the court case moves into its final phase. These are anxious times for anyone who works in the lobster fishery or runs a business that depends on it.

We begin this month with a summary of the court case brought against NMFS in 2018 by four environmental groups to protect right whales. The Maine Lobstermen’s Association (MLA) is an intervenor in the case and is the only organization in Maine that has been granted standing to participate in the case. In April a federal judge in the District Court in Washington, D.C. stated that “Congress enacted the ESA in 1973 ‘to halt and reverse the trend toward species extinction, whatever the cost.’ Based on the finding that NMFS violated the ESA, the case moves to its second phase to decide upon the appropriate steps to ensure the species survival. During this phase, the MLA and other intervenors will present their information on the fishery for the judge to review as he deliberates on a remedy.

Jerry Fraser, former editor of National Fishermon, takes a hard look at the balance between the ESA and the lobster fishery. In a column printed in that magazine in late April and reprnted this month in Landings, Fraser writes about the ESA and its application to the New England lobster fishery. He calls for a commonsense approach to the problem of right whale entanglements. “Rather than go down the road of mandating cumbersome, so-called weak links that don’t work half the time or expensive, high-tech gear such as submersible, radio-controlled lobster pot buoys, we must first see if such gear is needed. NOAA should be tasked with determining exactly where gear entanglements are taking place, and with what kind of gear.”

Landings also reprint a column written by John Sackton, former publisher of Seafoodnews.com, on the state of lobster markets. As he puts it, “There is a path through this, but it is like tightrope walking, with the slightest mistake causing a disastrous fall.” Seafood suppliers face a stark decline in demand and with it the potential for a commensurate decline in value. Maine lands a lot of lobster, more than 100 million pounds annually in recent years. But so does Canada. The bulk of the 300 million pounds landed by the two countries in an average year is frozen and sold to giant food service providers, who sell the product to casinos, cruise ships and other institutional buyers. That market has evaporated. Sackton contemplates what will happen when the season begins in earnest.

Department of Marine Resources (DMR) Commissioner Patrick Keliher addresses the strain that the pandemic and the court ruling have placed on lobstermen and their families. He outlines his department’s response to the judge’s ruling, which will include filing an amicus brief with the court. The DMR’s brief will provide information on the importance of the lobster fishery to Maine, as well as provide relevant factual data from the department. While DMR does not have the right to appeal the judge’s final decision, Keliher emphasizes that there are other legal means at the state’s disposal.

On a lighter note, this month we introduce Amalia Harrington, the newest member of the Maine Sea Grant extension team. Harrington will serve as the Northeast Regional Lobster Extension Coordinator. She received her Ph.D. in marine biology from the University of Maine in 2019. Harrington’s Sea Grant responsibilities extend throughout Maine and to other New England states involved in the American Lobster Initiative.

Landings also continues its series on the changing Gulf of Maine with a look at sea level rise in the region. The warming waters of the Gulf of Maine have translated into a rate of sea level rise that has increased in the past decade. The impact of higher tides is certainly being felt along Maine’s coast where high tides and winter storms repeatedly flood waterfronts. The higher tides may also have an impact on the region’s fishermen and the species that they target.

We continue our series on Maine’s historic harbors during the state’s 200th anniversary, exploring the history of the town of Friendship. Despite a bloody beginning, Friendship has prospered through the years, drawing on its renowned for the Friendship sloop, a versatile and elegant design used by Muscongus Bay lobster fishermen long before motors came into fashion. Today the harbor is home to dozens of lobster boats and fishermen’s wharves.

Finally, Landings talks with Corey Austin, a driver for marine transport company Toppins’ Diesel and Marine in Columbia Falls. Hauling a boat from the water to the land, and vice versa, is not a task to be undertaken lightly. Yet Austin and his boss, Tim Toppin, moving multi-ton vessels is almost a dance. As Toppin said, “They say ‘you can’t get in there’ and I say ‘well, I think we can.’” Determination like Toppins comes in many forms. We hope that all our readers are staying well and safe. We will get through this.
Coronavirus has created unprecedented challenges for Maine’s lobster fishery. Traditional market channels are constrained in ways we could never have imagined, forcing the industry to reinvent itself, practically on a daily basis. Direct to consumers sales have been an option for some but can’t be expected to absorb the volume that this industry is capable of producing as we head toward the summer season. During the last month, I have thought often of the expression “building the plane as you fly it.” For me, it captures the feeling of risk and uncertainty that we are all experiencing, with so much at stake.

And unfortunately, coronavirus is not the only challenge we face. As you have likely heard, DC District Court Judge James Boasberg recently ruled against NOAA in a lawsuit regarding right whales brought by a group of environmental organizations. The decision found that NOAA’s 2014 Biological Opinion (BiOp) violated the Endangered Species Act specifically because it did not include a required “incidental take statement.”

I know that there are a lot of questions around what this court decision means to Maine’s lobster industry and that you want to know how the state is working on this problem. It is clearly a difficult situation, but we are fortunate to have a strong legal team in the Attorney General’s office, working with the support of the Governor and Attorney General to address this challenge.

As I write this, we are waiting on the judge to determine what the schedule for the filing of briefs will be. We are also waiting to find out if the court will decide if an interim remedy or remedies are necessary to make sure the lobster industry complies with the Endangered Species Act, prior to the release of the new Biological Opinion that will occur later this summer.

Once the briefing schedule is established, we will file an amicus brief with the court. It will advise the court on the tremendous importance of this fishery to Maine, as well as provide factual data that is relevant to the arguments. Our brief will share with the court the science behind the state’s proposed plan which we submitted in January to NOAA.

Our proposal was based on data that NOAA has used in its own analysis, plus data that came from a survey DMR conducted in 2018, and many of you participated in. That survey of gear configurations gave us sound science on which to base our analysis of risk to right whales. I still strongly believe that our proposed plan is a better outcome than large closed areas, or draconian trap reductions.

The question I get most often in the aftermath of the decision is, will Maine appeal? The quick answer is we can’t, as we are not a party or intervener to the case. The Maine Lobstermen’s Association is the only group from Maine that has intervenor status, and the State’s attorneys are working with theirs to coordinate our efforts.

While you are likely angry and frustrated that the State can’t appeal, please understand that the decision on this case was very narrow, and is really about process. Basically, the judge determined that NOAA didn’t follow the Endangered Species Act. We can only assume the judge will want to make sure that NOAA follows the law going forward. We are in a “sliver” — a narrow band of time between now and when the judge makes a final ruling later this summer. After that this case will be moot and we move on to the next stage — that will be the rules put forth by NOAA. This is where our legal rights come back into play.

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Judge sets schedule for court case
Phase 2 of the case will address an interim remedy to be in effect for the lobster fishery until NMFS takes steps to come into compliance with the ESA through the issuance of a new Biological Opinion.

Procedural schedule for Phase 2
• Plaintiffs (4 environmental groups) file opening motion by May 15
• Federal Defendants (DOJ on behalf of NMFS) file response by June 15
• Defendant-Intervenors (MLA and MassLA) file by June 22, 2020; and
• Plaintiffs (4 environmental groups) file their reply by July 10, 2020.
Federal Aid to Small Businesses Tops $740 Billion

By MLA Staff

On March 27, President Trump signed into law the $2.2 trillion Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to address the financial repercussions of the COVID-19 pandemic in this country. The bill included $360 billion in funding to small businesses, co-authored by Senator Collins. Due to the extremely high demand for these programs, an additional $380 billion in new funding was authorized by Congress and signed into law by President Trump on April 24.

Financial assistance to small businesses included two forgivable loan programs — the Paycheck Protection Program (PPP) and the Economic Injury Disaster Loan programs (EIDL) — administered by the Small Business Administration (SBA). Applications for the PPP loan are made through local banks and approved by SBA, whereas the EIDL program applications are accepted online directly by SBA. The programs were set up to be on a first-come, first-served basis. The programs were so popular, that on April 16, the SBA announced that funds for both loan programs had been exhausted. When funding for these programs was initially tapped out, nearly 15,000 forgivable loans for small business loans had been approved in Maine totaling nearly $2 billion.

The PPP provides forgivable loans for small businesses to pay employees and cover some operating expenses such as interest on mortgages or rent (including boat loans), and utilities, for eight weeks if the business has been adversely impacted by the pandemic. The program supports all small businesses, including sole proprietors and contract workers, so you do not need to run payroll to qualify for this program. However, you do need to prove income, so small businesses that show a loss on their last tax filing do not qualify. The loan is forgiven as long as 75% of the funds are used to pay workers. If not, loan payments are deferred for six months and you have two years to pay off the loan at 1% interest. No collateral or personal guarantee is required.

The program has been so popular that the initial $350 billion funding to the program was spent out in just two weeks. Congress injected an additional $310 billion in funding of which $60 billion goes to smaller lenders to steer resources to businesses that typically have trouble getting loans. While many in Maine’s lobster industry have successfully applied for and received funds through this program, others have been left frustrated. Due to the extremely high demand and rapid roll out of this program, many banks will only accept applications from existing customers, and some banks will only accept applications from customers who hold business accounts. This meant that many lobstermen and sternmen have not been successful in applying for this program.

The EIDL program provides funds to small businesses suffering substantial economic injury as a result of COVID-19. These loans provide an emergency cash advance of $1,000 per worker, up to a maximum of $10,000, that does not need to be paid back. These loans are for working capital which includes fixed debts, payroll (unless covered through a Paycheck Protection Program loan), accounts payable, and other bills that can’t be paid. This program received $10 billion in the first round of funding, and an additional $60 billion in the second round. Applicants who submitted their applications during the first funding cycle are being processed on a first-come, first-served basis. The SBA has not begun accepting applications for the second round of funding as of May 1. The CARES Act also expanded eligibility for unemployment benefits, so lobstermen and sternmen may now qualify to receive pandemic unemployment assistance (PUA). Criteria to qualify have been expanded to include self-employed, 1099 contractors, sole proprietors and part-time workers who have been adversely impacted due to the pandemic. The Maine Department of Labor (MDOL) experienced delays in rolling out unemployment benefits for self-employed, but began accepting applications on May 1. These benefits are retroactive. In addition, the CARES Act increased unemployment benefits by an additional $600 per week for up to four months.

Unlike the PPP program, lobstermen who did not show an income in 2019 still qualify for PUA unemployment benefits. In fact, lobstermen are able to take advantage of all three programs, as long as the benefits from each program are not used to pay the same expense. For example, if you get a PPP loan to pay yourself, you cannot use EIDL loan proceeds to pay yourself, or receive unemployment benefits for the weeks you are being paid through the PPP program.

There is no “work search” requirement to receive PUA unemployment benefits through the end of May. However, if work becomes available to you, you are required to take it. You can also receive partial unemployment (PUA) benefits. MDOL requires that you certify your income each week to document if you were able to earn income in any given week. If you earn income while you are on unemployment, you simply don’t get a PUA check for that week.

The CARES Act also included a stand-alone provision with $300 million dedicated to help fishermen who are struggling in the face of collapsed markets through the Federal Fisheries Disaster Program. The money will be distributed by National Marine Fisheries Service (NMFS) to aid individuals, fishing communities, aquaculture businesses, processors or other fishery-related businesses. Funds may be awarded on a rolling basis and within a fishing season to ensure rapid delivery of funds. While NMFS has not yet announced the mechanism to distribute funds, it is anticipated that they will be distributed through the states.

According to the NOAA website, “NOAA Fisheries understands the urgent need for these funds, and our overriding goal is to distribute the assistance as quickly as possible. To that end, we are working daily with the Department and our federal partners to finalize a process to expedite the distribution of Sec. 12005 funds, consistent with the direction provided by Congress.”

Senator Susan Collins and other members of Maine’s Congressional delegation were instrumental in ensuring that the CARES Act addressed the needs of small businesses and specifically, the needs of fishermen and their families.

Where to find help

Resources on Small Business Loan Programs

MLA website
www.mainelobstermen.org

Small Business Administration
https://www.sba.gov/funding-programs/loans/coronavirus-relief-options

US Dept of Treasury
https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses

List of SBA approved lenders
https://www.sba.gov/offices/district/me/augusta/resources/mainelenders-list

Maine Small Business Development Centers
www.mainebsd.org

Coastal Enterprises, Inc (CEI)
https://www.ceimaine.org/covid-19-resources-for-businesses/

Resources on Paycheck Protection Program

Small Business Administration

Resources on Economic Injury Disaster Loans

Coastal Enterprises Business Advising
https://www.ceimaine.org/advising/

Small Business Administration

Resources on Pandemic Unemployment Assistance (PUA)

Maine Department of Labor Pandemic Unemployment
https://www.maine.gov/unemployment/pua/

FREE BUSINESS COUNSELING

Maine Small Business Development Centers
https://www.mainebsd.org/advising/

Maine Coast Fishermen’s Association
https://www.mainecostfishermen.org/covid-resources

SCORE
https://www.scoremaine.org/iax/

Resources on Pandemic Unemployment Assistance (PUA)
Fishermen live by the tides. They know when the high and low tides occur each day. They track the phases of the moon to be ready for the monthly neap and spring tides. The range and strength of the tides and currents is etched deeply in a Maine fisherman’s brain. But what happens when the tides change? As sea level continues to rise along the Gulf of Maine, the tides themselves will become greater. How will sea level rise affect the many commercial fisheries in the Gulf? The Gulf of Maine is warmer than it was in past centuries. Add heat to salt water and the water itself takes up more space, a process called thermal expansion. Sea level has risen globally due in part to thermal expansion. In addition, a warmer climate also affects land-based glaciers and ice sheets, causing them to melt. Antarctica, for example, has lost 2.7 trillion tons of ice, according to a 2018 study published in the journal *Nature*. This influx of freshwater into the ocean causes sea levels to rise.

Maine has been keeping track of the tidal range in three ports along the coast for more than a century. Sea level is 7.4 inches higher in Portland than it was in the early 1900s; in Bar Harbor it is 8.7 inches higher and in Eastport 8.4 inches higher. The rise in the level of the Gulf of Maine won’t be stopping any time soon and, in fact, has begun to accelerate. According to a study published by the Island Institute in Rockland, “The Gulf of Maine is especially susceptible to fluctuations in sea level due to changes in the strength of the Gulf Stream and seasonal wind patterns. Sea levels in the Gulf of Maine are projected to rise faster than the global average.”

Peter Slovinsky, a coastal geologist with the Maine Geological Survey and the Department of Agriculture Conservation and Forestry, studies sea level rise and its effect on the Maine coast. He has found that in the past two or three decades the rate of rise in the region has doubled, to approximately 3.2 millimeters (0.125 inches) per year. The impact of the rise is made more apparent in part because the Gulf of Maine acts something like a bathtub. Changes in the North Atlantic Oscillation, which affects the strength and direction of westerly winds, and in the pattern of the Gulf Stream are causing ocean water to surge against the coast.

What impact will increased sea levels have on Maine’s fishermen and fishing ports? Higher water levels may, in some cases, afford fishermen additional space in which to berth their boats, turning spots once accessible only at high tide to all-tide access. On the other hand, higher water means inevitable flooding of the streets and docks many depend on to reach their vessels. The effect on the species they fish for is problematic as well.

Coastal wetlands are the unnoticed nurseries for many commercially valuable species in the Gulf. Shrimp, shellfish and certain fish species all spend part of their lives in saltwater wetlands. In addition, wetlands act as a soft protection against storm surges and erosion during major storms. Keeping a healthy stock of wetlands along the Gulf of Maine remains vital to supporting multiple marine species.

Typically, as sea levels rise beaches and coastal wetlands move in response to the higher water. The roots of wetland plants collect debris in a process called accretion, which increases elevation. Beaches “roll” back, steadily moving inland. However, the Intergovernmental Panel on Climate Change Summary for Policymakers 2013 found sea level rise in some cases could be occurring faster than the wetlands’ accretion rate. In that case, the wetlands could be submerged.

The problem occurs when people and businesses located along the coast take steps to prevent the ever-increasing sea level from flooding their properties. Hard structures, such as seawalls or rock revetments, prevent the beaches and wetlands from moving inland. In those cases, the wetlands drown and disappear. When the wetlands are lost, so too are nursery habitats for many species.

The Natural Resources Council of Maine (NRCM) has produced an online map of the Maine coast based on GIS data to show the impact different sea level rise scenarios could have on coastal communities (https://www.nrcm.org/programs/climate/global-warming-air-pollution/sea-level-rise-maine/sea-level-rise-maps/). The top twenty towns to bear the brunt of sea level rise include fishing ports such as Jonesport, Boothbay Harbor, Vinalhaven, and Harpswell. In a sentence of considerable understatement, NRCM’s web site notes, “Damage to scenic beauty and the livelihood of fishermen and other natural resource-based economies could be devastating.”

![Coastal wetlands will suffer from a rising sea level, which in turn will impact Gulf of Maine fisheries. Bates College photo.](image-url)
A new person has joined the Maine Sea Grant marine extension team in Orono. Amalia Harrington, who received her Ph.D. from the University of Maine in 2019, was hired in March as the Northeast Regional Lobster Extension Coordinator through the American Lobster Initiative. The Initiative funds research aimed at understanding physical and chemical changes affecting American lobster in the Gulf of Maine, as well as a regional lobster extension program.

"In my position I will connect research and industry members to increase collaboration," Harrington said. "The Lobster Initiative operates through the Northeast so I will act as a bridge among the states." Harrington, 32, grew up in Michigan but quickly found her way to the Pacific Ocean. She attended the University of San Diego, where she received her B.A. in marine science in 2010, followed by an M.S. from San Diego State University in 2014. She moved to Maine with her husband in 2015 and pursued her Ph.D. in marine biology at the University, working with Dr. Heather Hamlin.

"I started in California working on spiny lobster habitat and shelter use. It was part of a lobster tag and recapture program and I worked with lobsters there," she said. "Through her work Harrington became fascinated with lobster behavior. They have great behaviors. They respond well to environmental conditions. If they are not happy they get up and walk," she explained.

At the University of Maine Harrington studied lobster biology in a changing marine environment. The Gulf of Maine provided an excellent research area: the Gulf is warming rapidly, the water chemistry is changing, and habitat for lobsters are expanding with warmer ocean temperatures. The changing environment does not mean an abrupt decline or increased mortality of lobsters, Harrington noted in her research. Such changes can affect lobsters in less obvious ways.

Increasing water temperature, for example, increased lobsters' heart rate, Harrington found, an example of physiological stress. Warmer water also has an effect on lobster larvae. Harrington examined stage four lobster larvae in her laboratory, analyzing blood drawn from the tiny creatures.

"The warmer the water, the fast the larvae grow and the higher the hemocyt count are," she said. Hemocytes are a component of lobster blood important to the animal's immune system and cellular stress. "Growing faster could be a good thing, but if cells are breaking down faster because the lobster is growing quickly hemocytes have to focus on cell damage and not the immune response. Warmer water also caused levels of genes related to cellular stress and metabolism to increase, but lowered levels of genes involved in the immune system [which may make the lobster susceptible to illness]," Harrington explained. "And with a higher metabolic rate and cell repair, you get really hungry. If those tiny hungry lobsters run into an absence of food in the seafloor area where they settle, such as the tiny copepod Calanus finmarchicus, they could fail to thrive.

Harrington looks forward to working with both lobstermen and researchers in her new position. Despite the fact she began work on the day that the University campus shut down due to the coronavirus, she has been active connecting to people in the industry. "There are lots of people on campus working with lobster, like food scientists and economists, as well as biologists. The question is how to keep the fishery resilient to this environmental change. I am looking forward to one-on-one conversations with fishermen on what they think is important," she said. "I am always willing to talk to people about how to keep lobster a vibrant industry."

Amalia Harrington can be reached at amalia.harrington@maine.edu and at 581-1440.

LOBSTER INITIATIVE PROJECTS UNDERWAY

In 2019, Maine Sea Grant was awarded a $2 million grant to fund research aimed at understanding physical and chemical changes affecting lobster in the Gulf of Maine as well as a regional lobster extension program. The funds were awarded to support seven two-year projects and seven four-year extension projects. A second round of funding is anticipated this year.

University of Maine scientist Damian Brady was awarded a two-year $399,293 grant to examine the disconnect between historic highs in lobster egg production in the Gulf of Maine with lows in juvenile recruitment.

University of Maine scientist Brady was awarded a two-year $399,994 grant to explore the potential effects of warming on lobsters' early stages. Brady and colleagues will examine how climate-induced shifts in larval development time and settlement habitat affect lobsters' early life history.

Alexa Dayton of the Gulf of Maine Research Institute will examine the severe declines in lobster and lobster fisheries in southern New England in 2010 and Australia in 2009. Her team will assess what management adaptations were considered or acted upon and how the Gulf of Maine lobster fishery might prevent a significant economic contraction in the face of expected landing declines and increased operating costs.

Tracey Pugh of the Massachusetts Division of Marine Fisheries will work to fill gaps in growth data, particularly for large offshore lobsters, in the U.S. Lobster Stock Assessment. The ability of the stock assessment to accurately assess the status and trajectory of lobster is critical to its sustainable management.

Emily Riverst of the Virginia Institute of Marine Science will research how changes in temperature and ocean acidification affect lobster fertility and the ratio of the number of births to the size of the population. The team's findings will be used to improve estimates of the effects of multiple stressors on the Gulf's natural systems and provide baselines for representative physiological markers for future work.

Kathy Mills of the Gulf of Maine Research Institute will examine data and case studies to understand the consequences of the major downturn in the southern New England lobster fishery. The team will evaluate how lessons may be applicable to lobstermen and communities in the Gulf of Maine and be relevant in planning for resilience and adaptation in culturally, socially and economically important fishing communities.

Jason Goldstein of the Wells National Estuarine Research Reserve will assess the impacts of warming water on the movements of sexually mature female lobsters and the fate of their larvae. In southern New England, lobsters have moved to deeper, cooler offshore water. The same trend appears to be underway in the Gulf of Maine.
It’s a delicate dance, taking a 40-foot, multi-ton lobster boat out of the ocean and placing it on land. You need a keen eye, a steady hand and a certain level of confidence in yourself and your truck. Those are the qualities that 33-year-old Corey Austin brings to his job as a transport trucker for Toppin’s Diesel and Marine in Columbia Falls.

Austin came to this work after lobstering for several years and selling to Garbo Lobster. “I was tired of being on all the time, I had no home life,” he said. So in 2014 he started working for Tim Toppin, owner of the company. “To tell you the truth, I knew nothing about it,” Austin said, referring to boat transport. “Tim showed me everything about it.

It’s not a casual thing, lifting a boat. Variables like the shape of the hull and distribution of weight must be taken into account. When moving a lobster boat from land to water, Austin noted, he has to watch the blocking and make sure the center of the trailer is centered on the vessel’s keel. “I remember the second day I was on the job. We hauled Travis Perry’s old H&H. I was really nervous! It took me a couple of months to do it by myself. Tim chased me around for a while to keep an eye on things.”

Tim Toppin started the business back in 1992. He had been a heavy equipment operator and the first dealer of John Deere marine products in the region. “I was 50, 60 hours a week. I decided I didn’t want to work on the wharves anymore,” he recalled. He bought a boat trailer, then another and eventually found he had a fleet. Caring for trucks and trailers that are immersed in salt water nearly every day is no small task. “I’m about to buy a $185,000 trailer next. If you maintain them, they can go 15 years or so. But every three or four years you have to do major maintenance. If you let them go, they’re junk in six or seven years,” he said.

About 90% of Toppin’s business comes from commercial vessels throughout Maine. Occasionally he will move pleasure craft. He remembered one time when he was moving a 90-foot sailboat constructed at the Brooklin Boatyard from the boatshed out to the Travel lift. “That scared me to death. It was a yawl, about three stories tall. It started leaning one way and then centered back again. I only had to move it about 100 feet but that was a long 100 feet,” he laughed.

The company occasionally transports boats as far as Cape Cod and Connecticut. Vessels that are 16 feet wide require a police escort. Two state troopers are needed for vessels 19 feet wide or greater. “It gets really expensive,” Toppin said. With his fleet of hydraulic tri-axle trailers and six full-time employees, Toppin prides himself on being able to go just about anywhere, off road or on, to pick up and move a boat. “They say ‘you can’t get in there’ and I say ‘well, I think we can’,” he said.

Business is picking up this month as more lobstermen put their boats back in the water. Austin keeps his 1998 Peterbilt truck in prime condition despite an increasing workload. “Tim and I rebuilt the truck over two-and-a-half years,” he said. “It was originally from California and we found it here in Maine online. Austin has entered the track in several truck shows and brought home a few trophies in recent years. “Corey’s a good driver and a good operator,” Toppin said. “He deserves a good truck.”

TRUCKS GET IT DONE

By Melissa Waterman

New England Marine & Industrial
www.newenglandmarine.com

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U.S. Patent 9,442,018
...there is no one I can find in the industry who thinks an unconstrained season won't be a disaster.

Finally, it does appear that foodservice sales may be bottoming out. NPD, a company which tracks supply, is reporting that sales remain off around 40% for all broadlines, while Dulcich says some of their sales have seen a 98% drop in that sector.

The key is that some proportion of foodservice operations won't reopen, and unless seafood distributors focus on new strategies, they will be expecting a traditional market to come back that likely is gone for the foreseeable future.

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Save Maine’s Lobster Industry

“The judge could close one of the world’s most sustainable fisheries and we cannot let that happen. Right whales are not dying in Maine lobster gear.”

Patrice McCarron, executive director
Maine Lobstermen’s Association

The federal government has violated the Endangered Species Act.

A judge could close the Maine lobster fishery.

This could mean the end of the lobstering tradition for our children.

The MLA is raising $500,000 for the Legal Defense Fund to save Maine’s lobster industry.

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Maine Lobstermen’s Association Legal Defense Fund
Thousands of Maine’s family-owned lobstering businesses are at risk of extinction due to a recent federal court ruling citing a violation of the Endangered Species Act (ESA) by the National Marine Fisheries Service (NMFS). The world’s most sustainable fishery could be shut down. And that is something that the Maine Lobstermen’s Association (MLA) cannot let happen.

“The MLA has launched a campaign to raise $500,000 to save Maine’s lobster industry,” announced Patrice McCarron, executive director of the MLA. “This case could lead to closure of the world’s most sustainable fishery and we cannot let that happen. Right whales are not dying in Maine lobster gear,” McCarron continued. “Lobstermen have done everything they have been asked to protect right whales and remain committed to doing their part to save the species.”

The MLA is asking everyone who cares about Maine lobster to join together to save the lobster industry by supporting the MLA’s Legal Defense Fund today. Contributions may be made on the MLA web site (www.mainelobster.org), via phone 207-967-4555, or by mailing checks made out to “MLA Legal Defense Fund” to MLA, 2 Storer St., Suite 203, Kennebunk, ME 04043.

**Timeline of Court Case**

- **January 2018** — Center for Biological Diversity, Defenders of Wildlife, the Humane Society of the United States and Conservation Law Foundation (eNGOs) — sued the National Marine Fisheries Service (NMFS) in 2018, arguing that the agency was not fulfilling its legal mandate to protect endangered North Atlantic right whales. The case was assigned to Judge James Boasberg of the Federal District Court for Washington D.C.

- **March 2018** — Judge consolidates both cases into a single case. Plaintiffs are the four conservation groups (eNGOs) and Defendant is NOAA Fisheries.

- **May 2018** — Judge orders case split into two phases, Phase 1 (Liability Phase) to deal with legal issue of whether NMFS had violated the law. On April 8, the judge ruled that NMFS had violated the Endangered Species Act (ESA), stating “failure to include an ITS [incidental take statement] in its 2014 BiOp [Biological Opinion] after finding that the American lobster fishery had the potential to harm the North Atlantic right whale at more than three times the sustainable rate is about as straightforward a violation of the ESA as they come.”

The judge’s opinion emphasized that “Congress enacted the ESA in 1973 to halt and reverse the trend toward species extinction, whatever the cost.”

- **November 2019** — NMFS files cross-motion for summary judgment, “The Plaintiffs have not located evidence that gear associated with a federal lobster permit has ever been recovered from a North Atlantic Right Whale since the issuance in 2014 of new whale protective measures, and neither has NMFS.”

- **January 2020** — NMFS submits affidavit to court indicating that the Biological Opinion (under ESA) and Proposed Rule (under MMPA) will not be forthcoming before July 2020.

- **April 2020** — Judge finds that NMFS has violated the ESA and plans to set a schedule for briefs in late April.

**JOIN THE FIGHT TO SAVE MAINE’S LOBSTER INDUSTRY**

**Give to the Maine Lobstermen’s Association Legal Defense Fund**

Four environmental groups — the Center for Biological Diversity, Defenders of Wildlife, the Humane Society of the United States and Conservation Law Foundation (eNGOs) — sued the National Marine Fisheries Service (NMFS) in 2018, arguing that the agency was not fulfilling its legal mandate to protect endangered North Atlantic right whales. The case was assigned to Judge James Boasberg of the Federal District Court for Washington D.C.

The case proceeded in two phases. Phase 1 would determine if NMFS violated the law, and if necessary, Phase 2 would decide on a remedy so that the American lobster fishery can continue to operate in compliance with the ESA. The judge ruled on the first phase deciding the legal issue of whether NMFS had violated the law. On April 8, the judge ruled that NMFS had violated the Endangered Species Act (ESA), stating “failure to include an ITS [incidental take statement] in its 2014 BiOp [Biological Opinion] after finding that the American lobster fishery had the potential to harm the North Atlantic right whale at more than three times the sustainable rate is about as straightforward a violation of the ESA as they come.”

The judge’s opinion emphasized that “Congress enacted the ESA in 1973 to halt and reverse the trend toward species extinction, whatever the cost.”

During phase two, now underway, the judge will evaluate the need for interim solutions or “remedy” to mitigate the potential risk that lobster gear poses to right whales and will hear the fishing industry’s perspective for the first time. As an intervenor of right, with full standing in the case, the MLA will correct significant factual errors in the eNGOs’ allegations that right whales are being harmed by entanglement in U.S. lobster gear. Among other things, MLA will present the facts on the outsized role of Canada in right whale deaths over the last five years. Sadly, all ten right whale deaths in 2019 were attributed to Canada.

Although NMFS, and not lobstermen, have broken the law, the plaintiff eNGOs are expected to press for implementation of an administratively simple remedy, such as a closure, with far-reaching consequences for lobstermen. Such a remedy would remain in force until NMFS completes an updated Biological Opinion (BiOp) as required under the ESA. According to NMFS, the draft BiOp is expected to be released this summer but could take up to a year to implement.

*It’s not just lobstermen whose future is at stake. An adverse decision would have a ripple effect on the thousands of businesses and communities that depend on lobstermen. “This could mean the end of the lobstering tradition for our children,” said McCarron. “We are fighting for our lives right now, and we are prepared to appeal if it comes to that,” she said.*

The MLA is asking everyone who cares about Maine lobster to join together to save the lobster industry by supporting the MLA’s Legal Defense Fund today. Contributions may be made on the MLA web site (www.mainelobster.org), via phone 207-967-4555, or by mailing checks made out to “MLA Legal Defense Fund” to MLA, 2 Storer St., Suite 203, Kennebunk, ME 04043.

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Offshore Lobstermen donate $5000 each

**The Brooks Trap Mill Challenge**
Businesses donate $10,000 or more

**The Jay Smith Challenge**
Lobstermen donate $1,000

Support the MLA Legal Defense Fund!
The York Lobstermen’s Association donated $5,000. Jeff White is the association’s director. “We’ve been through this in the groundfish industry and it was not good. Common sense doesn’t always prevail in the courts. Everyone needs to chip for the lobster industry to have a fighting chance.”

“We hope you are all staying safe and doing well during this crazy time. These 4 cute faces are staying positive and are here to promote an industry everyone in NE loves. Lobstering!!

Maine lobstermen are facing some strict Right Whale regulations and even a possible closure to our industry. This would be devastating to many communities, restaurants, and tourism here at home.

I have been talking to my wife about something we could do to gain some positive media for our fleet. We decided to donate 10 lobsters after every haul thru to support the Maine Lobsterman Association Legal Defense Fund. I donate the lobsters and you guys help us in this fight!!

My bucket is full and I will deliver to your door, now. Leave your name in the comments if you are interested in the next 10 I have available. Who wants to be our first supporter?

Nancy Beal sends along encouraging notes with her donations.

Cody Nunan dropped off an envelope full of donations from Cape Porpoise lobstermen. They raised $5300 for the MLA Legal Defense Fund! Cody and Eric Emmons are challenging all Maine harbors to step up and donate. “It’s critical” they said.

Jay Smith is challenging lobstermen to match his $1,000 donation.

The Downeast Lobstermen’s Association stepped up in 2019 with a donation of $1,500 to the MLA Legal Defense Fund.

Brooks Trap Mill donated $10,000 to the Legal Defense Fund. “We challenge businesses to match our donation. Just think about what could happen to our businesses and communities. There is so much at stake. We have to come together and solve this.”

“The question I get most often is, will Maine appeal? The quick answer is we can’t, as we are not a party or intervener to the case. The Maine Lobstermen’s Association is the only group from Maine that has intervener status, and the State’s attorneys are working with theirs to coordinate our efforts.”

Patrick Kelker, Commissioner
Maine Department of Marine Resources

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The MLMC is shifting the marketing program to focus on increasing consumer demand, since typical foodservice demand is facing an uncertain future this year. We are developing content to make home cooks more comfortable buying and preparing Maine Lobster, in all its product forms. In addition to pushing content out through a paid media program, materials will also be available to everyone selling Maine Lobster – dealers, processors, lobstermen, grocery stores, etc. – to use with their own customers.

While new protections are being considered to protect right whales, the MLMC is enhancing communications designed to protect the Maine Lobster brand against negative impressions around the issue. Our social media content will highlight the fishery’s overall care for the ocean environment with messages about sustainability, small independent day boats and multi-generational fishing families. Media audits show that Maine Lobster still plays a very small role (0.2%) in the overall conversation about right whales.
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By Melissa Waterman

For a town bearing the name ‘Friendship,’ its early history was anything but harmonious.

Soon after settlement in 1750, the village, then called Meduncook, became the site of a British military garrison built on appropriately named Garrison Island. Relations with the local Native American tribe were amicable until the outbreak of the French and Indian Wars. In May 1758, an Abenaki tribe attacked the small hamlet of 22 families, burning homes and killing Joshua Bradford and his wife and infant son. Two other sons were kidnapped and taken by the Indian attackers. Later that same year a combined party of Native Americans and French Acadians again attacked the settlement.

1758 was not a good year for the inhabitants of Meduncook but, like many small towns along the coast of Maine, its families hung on. After all, the small peninsula jutting out in Muscongus Bay and its adjacent islands provided a good harbor, protected coves, and an ample supply of marketable wood. In 1807 the residents incorporated and named their town Friendship. According to The Chronicles of Cushing and Friendship, published in 1892, the townspeople quickly showed where their priorities lay: "...on the third Day of April 1815, at a regular town meeting $100 was voted for schools, and $50 for the support of the gospel."

By 1859, the population of Friendship had grown to 691 individuals. Those residents were industrious: the village had two shipbuilders, two gristmills, one shingle mill and three sawmills. Fishing was an integral part of the local economy. In the 1880s, fishing ebb and flow shifted as fishing efforts among different species at different times of the year. Drying cod for shipment to the major cities of New England, for example, was a lucrative summer business.

The town is famous for its namesake fishing vessel, the Friendship sloop. The design of the sloop developed gradually in response to the needs of inshore fishermen, according to Betty Roberts of the Friendship Sloop Society. The basic hull design could be scaled up or down in size depending on an individual fisherman’s desire. But all Friendship sloops had an elliptical stern, most a clipper bow, and all were gaff-rigged.

The sloops were built all along the shores of Cushing, Bremen and Friendship during the late 1800s. But Wilbur Morse is most closely associated with the distinctive vessel principally because he made so many of them. Roberts notes that Morse launched a sloop every two or three months from his shop in Friendship, linking his town forever with the design. "...before the turn of the century one could see Friendship Sloops all over the bay engaged in seining for herring, hand lining for cod, sword fishing, mackereling, and lobstering," wrote Roberts. "The Friendship sloop began to fade as a commercial vessel as motorized boats became dominant in the early 20th century."

Friendship also began to diversify in terms of its economy around that time as well. In 1897, Sherman Tecumseh Jameson and Walter H. Wotton decided to expand the old Davis Wharf, a small fishing wharf accessible only at high tide, which was owned by Jameson. A steamboat captain in Rockland told Jameson that if the wharf were 100 feet in length, he would make the town a destination for his steamboats. The two partners paid for the work, renamed the property the Jameson & Wotton Wharf, and promptly built a new store, grain sheds, a ticket office, a freight shed, and a wide gangway that could be raised and lowered for loading and unloading freight. Jameson managed the commercial fishing business and Wotton managed the store.

The steamboats helped Camp Durrell, a large YMCA camp on nearby Moody Island, to prosper. The camp for boys was begun in 1890 when land on the island was donated by a Bath resident for operation by the Boston YMCA. Parents bringing their children to the island via steamboat had no place to stay the night so enterprising Friendship landowners quickly built two inns within walking distance of the Jameson & Wotton Wharf. The Argyle Inn and the Seaview Hotel were popular with vacationers and parents for many years, finally falling into bankruptcy after World War I.

Friendship today bears few marks of its bloody start more than two hundred years ago. Its harbor is dotted with lobster boats, its wharves bustle during the lobster and scallop seasons, and summer visitors still find their way there, not by steamboat, but rather along Route 220 during the summer months.
You know you are making something worthwhile when none of your customers want you to change it. Such is the case for Superior Marine Products in Gray. The company makes lobster blocks. "Lobstermen seem to love them," said Kristin Stanley, co-owner of the company with her husband Phil. "I think it’s a product that would be missed if we didn’t make it.”

The company got its start with a man named Nathan Brackett. Brackett was trained as a mechanical engineer. He was working for his father at Orr & Jennings Machinists in Portland when he started tinkering with a lobster block designed by his father in the 1930s. A Cape Elizabeth lobsterman tested a few of Brackett’s designs at sea, then Brackett went back to tinkering. Finally, in 1973 he introduced the Orr & Jennings lobster block (now called the Superior Size 4 Hi-Lip block). In 1982, Brackett decided to focus solely on lobster blocks and named his company Superior Marine Products.

Business hummed along. In 2000, Brackett sold his company to a friend, Dean Bridges, who had been in the metal fabrication business for 30 years. Bridges was a gregarious man. He focused his attention on what lobstermen wanted — and what they wanted was a lighter version of the old lobster block. He too began to tinker and eventually came up with the design for an all-stainless lobster block that could withstand constant exposure to salt water. He also created a UHMW poly sheave for all block sizes.

Time passed, as it has a habit of doing. In 2015, Bridges hired David Lawler, a friend and fellow metal fabricator, to take over the manufacturing end of the company. Bridges passed away in 2018, at which time Kristin and Phil Stanley, owners of PCS Performance in Gray, purchased the business. PCS Performance is a metal fabrication company that works in stainless steel, aluminum, titanium, steel and chromoly.

"The connection came through Dave Lawler. He wanted some part-time work and we hired him at PCS. Dean had mostly retired by then. That’s how we knew of the business," Kristin Stanley explained. Superior Marine Products was a natural fit for the Stanley’s. "It’s a great product and has an excellent following," Stanley said. "The final design hasn’t changed in more than 40 years. It works well and lasts as long as lobstermen expect it.”

Sales continue to remain strong despite the uncertain start to the fishing season. There are other products that Stanley thinks they might develop for the use of fishermen but for now, the couple is content to keep their two businesses on a steady course. And part of that steady course is continued support for the Maine Lobstermen’s Association (MLA).

"We like what the MLA does to support lobstermen," Stanley said simply. "It’s a strong organization and it gives us good exposure.”
TO YOUR HEALTH:  A time for resilience

By Ann Backus, MS

“Waiting for a call from someone in authority, waiting for any sign of hope…” Do these words describe the distress of a fisherman’s spouse or do they describe the distress of a husband whose wife is in the ICU with COVID-19? They could describe either; they could describe both.

Fishing families know that lives can be saved by using personal flotation devices while at sea. In this moment, lives can be saved by wearing masks when outside and by keeping a fathom apart.

Fishing families have experienced the pain of waiting before but that does not make the pain any less. The fishing industry there are hazards. Weather, for instance, can be unpredictable. It may difficult to find shelter in the lee of an island in time. It may be difficult to clear accumulating ice in the winter. It may be difficult to recover from a stern-chasing wave. With COVID-19, it may be difficult to escape from this virus when there is no shelter in terms of a vaccine, no evidence-based tool to knock it down in terms of a treatment, and nowhere to run from its presence.

Fishing families know that lives can be saved by using personal flotation devices while at sea. In this moment, lives can be saved by wearing masks when outside and by keeping a fathom apart. Fishing families and communities have shown over generations their capacity to recover from difficulties. We call this capacity, resilience. I like to think of resilience as buoyancy!

At the individual level, resilience includes preparing ahead. In a very pragmatic sense, it is when the key players in a household know where the legal documents such as wills and mortgages are and know where the bank accounts, checkbooks, ATM pin numbers, credit cards, and safe deposit box keys are. Resilience for some families includes having back-up plans, such as life-insurance, savings, health care proxies, provision for the care of children, and clear communication about end-of-life wishes.

At the community level, resilience includes having first responders, supportive local government, active community organizations and a crisis response team that meets regularly and rehearses emergency scenarios. But in these COVID-19 days we have to think on a totally different scale. In addition to the first responders, we need a large number of competent health care professionals and increased hospital capacity. In addition to supportive local government, we need support at the state and national levels. In terms of organizations we need those which can scale-up quickly, such as food banks, counseling centers, and small business assistance programs. In terms of a crisis response team, we need a team that can adapt quickly.

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COURT RULES FOR WHALE ACTIVIST IN MASS. CASE

As the result of a court case brought by whale activist Max Strahan last year, the District Court of Massachusetts ruled on April 30 that vertical lines used by lobstermen in that state pose a threat to endangered North Atlantic right whales. The court ordered the Massachusetts Executive Office of Energy and Environmental Affairs and the Division of Marine Fisheries to obtain an Incidental Take Permit under the Endangered Species Act within 90 days in order to continue permitting lobster fishing.

CANADA SPRING FISHERY BEGINS TWO WEEKS LATER

Fisheries and Oceans Canada announced Wednesday morning that lobster fishing areas 23 (Northern New Brunswick), 24 (PEI North Shore) and 26 (eastern Northumberland Strait, west coast Cape Breton) will open May 15. The season will begin at 6 a.m. subject to weather conditions.

There will not be a corresponding two week extension on the season’s end. Modelling commissioned by the Lobster Council of Canada predicts some 70 million pounds of product could be without a market in 2020. Those models presumed the Gulf of St. Lawrence fisheries would open at the beginning of May.

NEW WAY TO FIND YOUR SEAFOOD ONLINE

Maine Coast Fishermen's Association, a nonprofit organization located in Brunswick, has a web page dedicated to selling Maine seafood. The organization’s goal is to get more people eating seafood from Maine during a time when many are stuck in their homes. The 18 companies listed on the site at the end of April offer a wide variety of species, from eels to seaweed and scallops. The page also provides links to two Facebook pages monitored by the Association where fishermen and seafood businesses can post products they have for sale and local seafood consumers can find local sources. Visit https://www.maine-coastfishermen.org/maine-seafood to learn more.

DMR MAKES EXCEPTION TO PURPLE MARK REQUIREMENT

As of April 21, the Department of Marine Resources ruled on an exception to current requirements to mark the buoy lines for trap/pot gear with either three or four purple marks, depending on where the gear is fished. Buoy lines of 100 feet or less in length would be required to have only two purple marks, one of 36 inches in the top two fathoms of the line, and one of 12 inches at the bottom of the line.

CANADA PROVIDES AID TO SEAFOOD PROCESSORS, AQUACULTURE BUSINESSES

Canadian announced in April that aquaculture and seafood processing companies will have access to the $5 billion CA from the Farm Credit Canada loan program. Fishermen, processing workers, and front-line aquaculture workers are entitled to the Canada Emergency Response Benefit, which provides $2,000 CA per month for up to four months for those who lose their income as a result of the COVID-19 pandemic. Small- and medium-sized businesses will have access to $65 billion CA in support via interest-free loans provided through the Canada Emergency Business Account and the Export Development Canada and Business Development Bank. In addition, seafood processors and other related service sectors received an exemption that allows them to hire and bring into Canada temporary foreign workers. Those entering the country will need to isolate for the first 14 days after their arrival.
FAIR WINDS AND FOLLOWING SEAS

By MLA staff

David Provencher, a life-long lobsterman and staunch Maine Lobstermen’s Association (MLA) member, died on April 14 at his home in Scarborough.

Provencher began working as a stern man on a friend’s lobster boat when he was 15 years old. He graduated from Scarborough High School in 1976, and later Southern Maine Technical College. Soon after, he pursued a full-time career as a lobsterman.

Provencher fished out of Pine Point for more than 40 years aboard his 32-foot lobster boat Robin’s Nest. He sold his catch to the Pine Point Fisherman’s Co-op, which was purchased by the owners of Bayley’s Lobster Pound in 2019.

With his wife Robin, the Provenchers owned and operated The Dairy Corner in Scarborough for nearly 20 years. Robin Provencher ran the business and David was the business handyman, building picnic tables for customers and fixing anything that need fixing. Last year, the Provenchers sold The Dairy Corner to Cheryl Ryan, a longtime employee.

The Dairy Corner has created an ice cream sundae to honor Provencher called “The Robins Nest.” It is made with “Dough Your Job,” the official ice cream of the New England Patriots, topped with hot fudge, whipped cream, Boston Bruins-colored sprinkles, and a gummy lobster. A portion of the sales will be donated to the Maine Lobsterman’s Association.

Provencher left behind his wife Robin and two sons, Lucas and Nathan Provencher.

Stevens got $80 million for research, and NOAA implemented “reasonable and prudent alternatives” that allowed the pollock fishery to continue in the meantime.

Unfortunately for the lobstermen, they have no Uncle Ted.

As such, a federal court ruling April 9 invalidating NOAA’s 2014 biological opinion on right whale interaction with lobster gear hangs like a sword of Damocles over the industry.

NOAA’s position is that vertical lines used by lobster catchers don’t jeopardize right whales. The plaintiffs argued that the agency failed to include an “incidental take statement” (ITS) in its biological opinion, thereby violating both the Endangered Species Act and the Marine Mammal Protection Act.

In fact, NOAA addressed potential interaction and mortality, but maintained that because the ESA and the MMPA overlap, an ITS, as such, was not required.

Judge James E. Boasberg would have none of it, writing that NOAA’s “failure to include an ITS in its 2014 BiOp after finding that the American lobster fishery had the potential to harm the North Atlantic right whale at more than three times the sustainable rate is about as straightforward a violation of the ESA as they come.”

The facts make clear, however, that potential and likelihood are two different propositions. In 1991, when NOAA’s original recovery plan was implemented, the right whale population was estimated to be just north of 250. Following implementation of vessel speed restrictions and shipping lane modifications, by 2010 the whale’s ranks were put at greater than 450. During the same period, the number of trap tags sold to Maine lobstermen increased from 2 million to 3 million.

If lobstering were truly a threat to the right whale’s survival, it’s hard to explain the growth in the number of whales against a 50 percent increase in gear.

In fact, since 2002, there have been four documented entanglements of right whales and lobster gear, none resulting in serious injury.

Meanwhile, the right whale’s summer range has shifted northward into Canadian waters, likely as a result of warming in the Gulf of Maine, which explains the spike in Canadian mortalities. The Canadians have responded with vessel speed restrictions in waters where right whales have been observed.

The ESA honors what Abraham Lincoln called the better angels of our nature. The law insists we take whatever steps are necessary to protect species; it does not insist that we take steps that don’t.In the case of the northern right whale, for example, it doesn’t allow us to say, “We don’t know, but let’s rule out lobstering.”

There is no evidence of right whale mortality as a result of interactions with lobster gear. Aggregations of right whales have increased in Massachusetts, in Cape Cod Bay and off Nantucket, but it’s fairly clear that in Maine whales and lobster gear seldom share the same waters. In fact, we have seen that as the number of lobster traps in the Gulf of Maine increased, so did the number of whales.

In Alaska, scientists found that Steller’s sea lions liked herring and ate groundfish such as pollock as a last resort. Research also showed that predation by killer whales played a significant role in the decline of the sea lions.

Judge Boasberg has not yet settled on a remedy in this case. Rather than go down the road of mandating cumbersome, so-called weak links that don’t work half the time or expensive, high-tech gear such as submersible, radio-controlled lobster pot buoys, we must first see if such gear is needed.

NOAA should be tasked with determining exactly where gear entanglements are taking place, and with what kind of gear.

We’re not helping whales if we protect them from encounters that aren’t taking place.

Levi Rodin, 8, caught a big one while fishing with his father aboard the F/V Pandora out of Cushing. Photo by Erin Rodin.
ALL IN A DAY’S WORK

Summer is nearly here and it’s time to get to work, as these children of Maine lobstermen can attest to. It takes time to teach the next generation the traditional skills they will need to succeed in the fishery. But lobstering is a way of life, not just a job, and who better to teach it than a parent. Thanks to all who contributed these wonderful photos!

Rose Reynolds takes her lookout job seriously. Photo by Travis Reynolds.

Lucas Jones helps his father navigate aboard the F/V Nya & Gianna in Stonington. Photo by Ashley Jones.

Kaiden Ramsey aboard F/V Old Greeley off Bailey Island. Photo by Kristi Ramsey.

Noah Clayton, age 12, has fished for three years off Large Green Island. Photo by William Clayton.

4-year-old Jacob McCullagh hauling off Tenants Harbor. Photo by Hailey Braizer.

Maine Fishermen’s Co-operatives
~Since 1947~
Organized for Maine’s fishermen, by Maine’s fishermen.