



# PEER

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PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY

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962 Wayne Ave • Suite 610 • Silver Spring, MD 20910

September 3, 2020

Representative Jared Huffman, Chair  
Waters, Oceans, and Wildlife Subcommittee  
1527 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Huffman:

I am writing you on behalf of Public Employees for Environmental Responsibility (PEER) to urge that your subcommittee undertake a serious review of the state of scientific decision-making within National Oceanic and Atmospheric Administration (NOAA) Fisheries. Based upon accounts from current and former NOAA Fisheries scientists, the agency is suppressing pressing scientific concerns to benefit the fishing industry. It is becoming increasingly clear that NOAA Fisheries' dual roles of both protecting marine mammals and federally listed fishing stocks and, at the same time, promoting the fishing industry, is increasingly untenable.

PEER urges your subcommittee to undertake a review as to whether these two competing functions should be statutorily separated into different entities.

NOAA Fisheries' handling of the North Atlantic right whale is a case in point. As this large whale species careens toward extinction, NOAA Fisheries' leadership refuses to act on the findings of the agency's own scientists to protect these whales.

Roughly 400 North Atlantic right whales remain in existence. Recently, the International Union for Conservation of Nature (IUCN) listed the North Atlantic right whale as critically endangered, meaning it is facing an extremely high risk of extinction in the wild.

PEER has documented how NOAA has repeatedly ignored its fishery scientists' recommendations on ways to reduce ship strikes and entanglement. Where the cause of death is known, 100% of right whale mortality is from ship strikes or entanglements in fishing gear.

Internal documents obtained by PEER also reveal NOAA Fisheries "only want to share good news" about right whales, in order to downplay the effects of fisheries on the species. They also

show that HQ is “freaked out” about the notion of the public discovering how entanglements harm right whales.

This inaction and overriding concern about “bad publicity” come at a time when we are living through a mass extinction that is unfolding at rates hundreds or thousands of times faster than at any time in the past tens of millions of years.

Even as evidence pointing to the looming extinction for endangered North Atlantic right whales mounts, NOAA Fisheries has recently signaled that it will largely abandon targeted aerial surveys, its most effective tool for identifying individual whales, assessing their health, and monitoring entanglements, all of which are critical to their protection. Instead, NOAA Fisheries wants to increase reliance on passive acoustic monitoring which does not detect the identity or condition of whales and misses mother-calf pairings – data critical to recovery efforts.

This critical shift is signaled in “North Atlantic Right Whale Monitoring and Surveillance: Report and Recommendations of the National Marine Fisheries Service’s Expert Working Group,” posted quietly by NOAA on August 12<sup>th</sup>. The report calls for “Maintaining or increasing vessel survey effort to collect individual health data and replace aerial surveys for collecting individual identification photos whenever possible.” The stated rationale is “the danger of aerial surveys.”

This new report is highly questionable because, among other failings –

- North Atlantic right whale researchers inside and outside of NOAA were not involved in developing the recommendations;
- It does not mention the critically endangered status of the right whales, and has no sense of urgency necessary to save this critically endangered species; and
- It appears to value data modelling as a substitute for direct action to save this Critically Endangered species.

This report comes out as a new court ruling blocks a lawsuit to require NOAA Fisheries to act to reduce entanglements with fishing gear, principally lobster lines, the leading cause of right whale mortality. In his August 10 order, District Court Judge Lance Walker concluded –

“North Atlantic right whales continue to suffer a significant number of entanglements, ...[but] most right whale entanglements cannot be attributed to a specific fishery either because the gear is not recovered or because the identifying portion of the gear.”

That suit sought to end NOAA Fisheries’ delay in deciding on requirements to reduce entanglements.

By all appearances, this latest report is a pretext to rationalize continued official inaction due to supposed data limitations, and that these delays may be magnified by this report’s recommendations. Significantly, this report only mentions in passing that this species is

critically endangered and on the brink of extinction and does not explain how additional acoustic or vessel-based data will save it.

Moreover, aerial surveys are the only way to identify individual whales, which is critical to their protection. The stated rationale of an unquantified “danger of aerial surveys runs counter to the approach NOAA and other agencies routinely use and, if accepted, would significantly curtail both the quality and quantity of key biological data gathered on species across the globe.

In the past few months, PEER has revealed that NOAA Fisheries sworn statements in litigation are contrary to the work of its own scientists. We have also repeatedly tried, without success, to engage the Department of Commerce Office of Inspector General to review these concerns.

Nor is NOAA Fisheries’ dereliction of duties limited to the right whale. As you know, the same dynamic of industry pressure is causing the marginalization or outright suppression of agency science in settings ranging from the San Francisco Bay Delta to the Gulf of Mexico, and from the Hawaiian Islands to the fertile but fragile waters of our Arctic seas.

For these reasons, PEER believes that it is time for serious Congressional consideration of systemic reforms to protect marine life from industrial demands that threaten sustainability.

Sincerely,

A handwritten signature in black ink that reads "Tim Whitehouse". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tim Whitehouse  
Executive Director