

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

MAINE LOBSTERMEN’S ASSOCIATION,  
INC.

Appellant

and

STATE OF MAINE, DEPARTMENT OF  
MARINE RESOURCES, et al.,

Appellees,

v.

NATIONAL MARINE FISHERIES SERVICE, et  
al.,

Appellees.

September Term, 2022

1:21-cv-02509-JEB

Case No.: 1:22-cv-5238

**DECLARATION OF GENEVIEVE MCDONALD**

I, Genevieve McDonald, declare and state as follows:

1. I am Genevieve McDonald, a 39-year-old lobster boat captain in Stonington, Maine. I have been a commercial fisherman for 17 years. I fish for lobster and halibut, and have worked as crew on lobster, sea urchin, menhaden, and sea cucumber fishing vessels. My husband is the rigging foreman for Billings Diesel & Marine, a boatyard located in Stonington specializing in service for commercial fishing vessels. We have two children. Stonington, Maine is a fishing town of 1070 year-round residents. There are approximately 150 lobstermen, who employ 1-3 crew members, and 8 lobster buying stations which fuel the economy of our small island community.

2. I am a long-time advocate for sustainable marine fisheries management, climate change resiliency strategies, and environmental policy. In 2014, I was the first woman appointed to the Maine Department of Marine Resources Lobster Advisory Council (LAC), where I served eight years as the Downeast Region Representative. In this capacity I also served eight years as the LAC appointee to the Maine Commercial Fishing Safety Council. From 2018-2022, I served two terms in the Maine House of Representatives for House District 134 representing the communities of Deer Isle, Frenchboro, the Cranberry Isles, Isle au Haut, North Haven, Southwest Harbor, Stonington, Swan's Island, Tremont, and Vinalhaven. During my time in office, I was a member of the Joint Standing Committee on Marine Resources. I also served on the Coastal and Marine Working Group; and the Community Resilience, Public Health, and Emergency Management Working Group of the Maine Climate Council. I currently sit on the Board of Advisors for the William S. Cohen Institute for Leadership and Public Service at the University of Maine.

3. I have held a Class II Maine Lobster and Crab Harvesting license since 2008, having spent the previous three years completing the Maine Lobster Apprentice program. I do not have a federal fishing permit and lobster entirely within the three-mile state waters boundary. I set 400 lobster traps each fishing season; in previous years I set 600. My season begins in May and ends in November. In the spring, I assess my traps, ropes, and buoys, make needed repairs, and complete maintenance on my fishing vessel. Spring is a stressful time as funds saved from the previous year's fishing season are depleted, yet the costs to prepare for the upcoming season are significant. Like many lobstermen, I have a charge account at local fishing supply stores, which is paid off as the season gets underway. I also charge the bait and fuel needed to set out traps, to be paid when I have lobster landings to generate the necessary cash flow.

4. I love to lobster. I love being on the water. I love the fact that I am an independent business owner, choosing when and how to fish and keeping others employed. I love the fact that I don't have to ask anyone for a raise, I just have to work harder. I love the fact that, as a working mother, I can set my own schedule and also make a good income in a rural area. There is nowhere else I would rather be and nothing else I would rather do. My children, both daughters, also love being on the water, and I want there to be a fishery that is accessible for them long into the future.

5. I own my boat, a 32ft Holland, *Hello Darlings II*, outright. However, I took out a Small Business Administration Economic Injury Disaster loan in 2020 in the midst of the COVID pandemic. At that time, I had no concern about my ability to repay the loan. Now, due to the uncertainties arising from the litigation being pursued by environmental advocates and potential federal whale regulations, I have serious concerns about my ability to pay back those funds. In addition to my own anxieties, I helped a number of other lobstermen apply for disaster relief loans during my tenure in the Maine Legislature, which they may also find difficult to repay.

6. Lobster traps set too close in proximity compete for lobster and reduce catch per trap, which makes overall fishing effort less efficient. Gear density and crowding in state waters of Penobscot Bay is already high. By the first week of July, the inshore fleet has set their traps and the larger offshore vessels have returned inshore and set their gear out as well. Lobstermen try not to literally set their traps on top of one another but inevitably traps become snarled due to the push of the tide or the force of the current. A snarl may involve two or three pairs of traps, four to six traps in total, or it may become a "bouquet" of dozens of traps. Snarls are dangerous. It is not uncommon for a lobsterman to lose a finger or injure a shoulder or back while

attempting to untangle a heavy snarl. A lobsterman must haul the snarled gear to work on it, and the weight combined with the extreme tension from the hauler may cause the rope to break and snap back, injuring the captain or crew members. This can also cause the davit, an arm mounted to the side of the boat, to separate from the cabin substructure causing damage and lost fishing time. If the snarl can be lifted into the boat, it creates a tangled hazard underfoot that in the worst of circumstances can tangle the captain or a crew member and pull them overboard and underwater due to the weight of the snarl. Segments of snarls are often not visible on the surface but stay below the water line creating hazards to navigation. Others are never recovered and become “ghost” traps that contribute to marine pollution.

7. If the federal lobster fishery is closed or severely restricted, the economic, operational, and cultural impacts for Deer Isle, Stonington, and the unbridged island communities of Penobscot Bay will be profound. There are three components vital to the success of the Maine lobster fishery. First, sustainability of the resource. Second, diversity within the fleet. Third, it must be profitable enough for people to earn an honest living. Take away any of these components and the fishery fails. The regulations contemplated to preserve the North Atlantic right whale population threaten all three elements.

8. The Maine lobster fishery is structured to support a diversity of fishing vessels, from student license holders fishing seasonally nearshore in small skiffs to 50-foot or larger vessels operating year-round offshore in federal waters. If closures or severe restrictions are enacted in federal waters, the lobstermen who once fished offshore throughout the year will not take up their gear—they will move inshore. The crowding will be extraordinary and will cause significant reduction in catch for individual lobstermen, increase safety issues (such as increasing the risk of snarled gear, among other things), and lead to social unrest among competing

fishermen. The offshore vessels use heavier traps and more sophisticated, high-end equipment, which translates into more fishing power. These vessels will outcompete the smaller inshore vessels and drive them out of business.

9. The Maine lobster fishery has a long history of responsible stewardship. The first fishermen-initiated conservation measures to protect the resource became law in 1872. I am concerned that the lobster resource cannot sustain such a high level of intense, concentrated fishing effort in inshore waters resulting from a court order or ill-conceived regulatory measures that result in the closure or severe restriction of the federal lobster fishery.

10. Deer Isle, Stonington, Vinalhaven, and other communities that depend on the lobster fishery will suffer severely if the offshore lobster fishery were shut down or significantly restricted. While the state waters fishery is seasonal, the federal fishery supports our lobster fleet year-round sustaining many fishing families through the entire year. Stonington has been the top landing lobster port in Maine for value for many years. Vinalhaven, an unbridged island community, is the 2<sup>nd</sup> highest landing port by value. The value of lobster landed in Stonington was \$73.3 million in 2021 and \$43.3 million in 2020. The value for Vinalhaven was \$55.65 million in 2021 and \$33.71 million in 2020. Removing the offshore fishery is the equivalent of removing the economic cornerstone not only of Stonington and Vinalhaven, but of the many coastal communities in Washington, Hancock, and Knox counties.

11. There are few other economic opportunities in this region, and the cost of living is higher on the coast than in the rest of Maine. If the offshore lobster fishery is closed, lobstermen and their families—whether federal lobstermen who go out of business or state lobstermen who are pushed out of state waters by offshore boats—will be forced to leave their communities to

pursue other work or to find affordable housing elsewhere. Removing these families will erode our tax base and reduce the number of students, and our schools will fail. The many fishery-dependent businesses such as bait dealers, lobster buyers, fishing supply stores, boat builders, and vessel service yards, will decline or close. These businesses, which are the shoreside infrastructure of the lobster fishery, employ thousands of people in Hancock, Washington and Knox counties.

12. Not only will these lobstermen go out of business, but their business assets will be worthless. If NMFS closes the federal fishery, there will be a flood of boats, traps, and other lobstering assets for sale with no market to sell them. Lobster boats and associated fishing equipment are highly specialized. They are typically sold within the industry; as one expands into a new boat, the boat will be bought by someone still growing into the business. This market will cease to exist. The shoreside support businesses including boat yards, mechanics, bait businesses, fuel, and support services will all be devastated as lobstering is the largest and most dominant fishery that keeps these businesses going.

13. The social fabric of Stonington will also be sharply affected. Stonington has achieved something that very few towns in Maine and perhaps elsewhere have achieved. The town is a thriving year-round community of fishermen, retirees, artists, and people from diverse backgrounds. We have a robust working waterfront, a flourishing cultural center that includes the Stonington Opera House, restaurants, grocery stores, and fishing supply stores. We support our schools' sports teams and also modern theater and music events throughout the year. Stonington and Deer Isle are places where people of different economic strata know each other, volunteer together, and live together with each appreciating what the other contributes to the community.

14. If the federal fishery is shut down, and those boats are forced to fish inshore (or go out of business), compromising the success of all of these lobstering businesses, gentrification will occur. People who can no longer fish will leave the island. The allure of coastal living, however, remains extremely strong. We have seen a sharp uptick of new residents, many of whom are COVID refugees, during the past three years. Should fishing families have to move elsewhere because they can't afford to stay, others will come here to fill that vacuum. And they won't be fishermen. Stonington will become another tourist destination, another coastal town where the economic opportunities are limited to low-paying seasonal jobs, which becomes a ghost town in the winter. Families that have made their living for generations on the water and kept waterfronts active will be driven elsewhere. The social fabric of these communities, their schools, libraries, restaurants, town festivals, and other aspects of a rich year-round life will be irretrievably lost. Stonington will no longer be a fishing town, and other towns will suffer the same fate.

15. I am very disturbed and saddened by the idea that a court or agency-induced closure of the federal lobster fishery could occur and consequently destroy a fishery and a traditional way of life that has proved its sustainability over the decades, that feeds and clothes numerous families in an economically depressed region, and that remains the lifeblood of so many small harbors along the Maine coast. Lobstering is more than a job. It is our cultural identity and sense of place. It is Maine.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my information and belief.

Executed on October 6, 2022, in Friendship, Maine.

Genevieve L. McDonald

Genevieve McDonald