

**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 LAWRENCE BARKER**

I, Lawrence Barker, declare and state as follows:

1. I am Larry Barker, President and Chief Executive Officer of Machias Savings Bank. Machias Savings Bank, founded in 1869, has offices in Bangor, Bar Harbor, Brewer, Calais, Caribou, Columbia, Danforth, Princeton, Ellsworth, Houlton, Lincoln, Portland, Presque Isle, Rockland as well as Machias. The bank has over 300 employees and in 2021 earned \$30.8 million in net income on revenue of \$91.8 million. The bank serves approximately 700 fishermen from Calais to Portland and has done so for more than 150 years. My son is a lobsterman as are many of my friends. Many of our employees have partners in the fishing industry.

2. The importance of lobstering to the economy of Maine cannot be overstated. Should the lobster fishery be severely restricted due to proposed changes to the Atlantic Large Whale Take Reduction Plan resulting in a 90% reduction in risk from the fishery to North Atlantic right whales, the ripple effects will be enormous.

3. Lobstermen come to Machias Savings Bank for many different services, from business financing to home and boat loans. We provide financial assistance to a fisherman somewhere along the coast every day. By NAICS code, the bank holds a \$150MM agricultural/fishing portfolio, \$85MM of which is directly from lobstermen and women. Within Washington County those figures are even greater – 30% of the bank’s business loans in that county are for lobster fishing purposes.

4. The Downeast lobster fishery spans Washington and Hancock Counties. According to the Sunrise County Economic Council, approximately 1,100 residents work full-time as lobstermen in the Downeast fishery, either as captains or as sternmen. While aquaculture is also an important component of the two counties’ economies, it employs between 75 and 100 people, a fraction of those connected to lobstering. In years past, if one fishery had a difficult year or there was a downturn in that species, fishermen could shift into other fisheries such as groundfish, herring or shrimp. Those opportunities no longer exist. According to the state of Maine, in 2021 lobstering accounted for 82% of the value of all seafood landed in Maine. Lobstering is the primary economic driver for Maine’s coastal communities.

5. More than any of the other Maine counties we serve, Washington County is highly dependent on commercial lobster fishing. After government support and the county’s one paper mill, lobstering is the third largest source of income. The college education rate is 25.4%

less than the State average, with families pursuing fishing directly after high school. The poverty rate and deep poverty rates are among the highest in the State at 18.1% compared to a Maine average of 11.1% and 49% for single head of household with children under 5. The entire community is dependent on revenue generated from the fishing industry to keep the service and retail economies moving. Neither aquaculture nor the limited window of tourism provide substantial revenue creation or population increases to counteract the 100 year population decline the county is experiencing.

6. The Downeast lobster fishery is home to four of Maine's top ten-earning fishing ports. This portion of the fishery comprised nearly half (48%) of the value of Maine's lobster landings in 2021. If the Downeast lobster fishery were reduced severely, the effects would be far-reaching. Hundreds of lobstering families would be put out of business which would have a domino effect, decimating a variety of other businesses both directly and indirectly dependent upon the success of the lobster industry.

7. The lobster fishery directly supports hundreds of businesses, large and small, in the lobster supply chain including lobster buying stations, transportation companies, storage and holding facilities and lobster processing plants. According to an economic study by Colby College in 2018, the Maine lobster fishery supply chain generates nearly \$1 billion in revenue each year, in addition to lobster landings. These subsidiary businesses and services provide much-needed steady jobs in a region of Maine plagued by high unemployment and poverty rates.

8. Numerous other businesses in the bank's service area, such as car and truck dealerships, trucking companies, local stores and restaurants, all would be negatively affected by a steep decline in lobstermen's income. Many of these smaller businesses have been our

customers for decades. To see them disappear would be a blow not only to the bank but to the communities in which they operate. The lobster fishery truly is the backbone of this region.

9. Machias Savings Bank prides itself on its ability to work with our customers to help them through hard times. When the Great Recession began in 2008, many hardworking men and women in this region found themselves in difficulty with respect to home and business loans. We were able to re-negotiate many of these loans during those challenging years, a success that reflects the bank's firm connection to our communities. We will continue this to support our lobster fishing industry along with philanthropic support.

10. The post-pandemic economic climate for the lobster industry has been extremely challenging. The cumulative effects of higher fuel prices, higher bait prices, and increased shipping costs have already affected the solvency of many of these businesses. However, lobstering business are resilient and are skilled at squeezing through marginal years in hopes of a better year later.

11. Things have changed in the aftermath of the federal court ruling in September denying the lobster industry's claims in *Maine Lobstermen's Association vs National Marine Fisheries Service*. The uncertainty of the new deep cutting federal whale regulations now underway has sent a chill through the lobster fishery this year unlike anything I have experienced during my tenure. Since the Court's ruling there has been a significant increase in anxiety and unease among lobstermen who are our customers. Our employees with close connections to the lobster industry are regularly hearing from lobstermen that they are cancelling plans to apply for new loans given their uncertain future. Many will delay important investments in upkeep of their boats, engines and traps due to financial uncertainty. Already, we are receiving numerous

inquiries for loan modifications and we anticipate those requests to accelerate dramatically. We are fielding calls from Rockland (17 in one day) to Cutler from concerned fishermen inquiring about the bank's process for vessel repossession.

12. I have heard directly from lobstermen that the Downeast region will likely experience an extremely large closure of state and federal waters due to a computer model that predicts the presence of right whales. Years ago this would have made sense but right whales no longer pass through these waters to feed in the Bay of Fundy. I know that this is true because the New England Aquarium has abandoned its whale monitoring station in the town of Lubec, located in Washington County, because they no longer detect these whales. Federal actions make even less sense because Canadian lobstermen will continue to set their traps, which do not use the same whale-safe gear that we do, in the U.S.– Canada shared waters called the Gray Zone.

13. As president of Machias Savings Bank, I dread the fallout of a sharp reduction in the lobster fishery. A bank does not want to repossess a fishing boat, no more than it wants to call in a loan on a truck or a home. We want our customers to succeed, both in their businesses and in their communities. Should federal regulations come into effect that close the offshore lobster fishery in this state or severely restrict lobstermen's ability to fish, the sheer volume of those affected will present a financial disaster unlike any in the bank's recent years. I fear that this will destabilize our coastal economy to levels that will have profound irreversible effects.

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.



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Lawrence Barker