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**FIGHTING FOR COMMON SENSE WHALE RULES**

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The MLA has been leading the charge for common sense whale rules for Maine. The MLA has advocated that rather than adopt “one-size fits all” management measures for all fisheries along the east coast, that any ban on floating groudline or other management changes be based on a probability analysis demonstrating the interaction between at risk large whales and fishing gear.

In response to a growing consensus from the industry, the MLA established the MLA Legal Defense Fund to earmark funds solely for activities related to fighting for common sense whale rules. Since the establishment of the fund in March 2007, the MLA has undertaken a variety of activities including:

- Retained the services of the Washington, DC based law firm of Kelley Drye Collier and Shannon.
- Intervened and participated in mediation in the court case brought against the National Marine Fisheries Service by the Humane Society and the Oceans Conservancy.
- Made a donation to the Massachusetts Lobstermen’s Association towards their legal battle against Max Strahan who is suing a lobsterman whose “whale compliant” gear was successfully removed from a humpback whale which swam away unharmed.
- Responded to a notice from Max Strahan with regard to his threat to sue the Maine lobster industry.
- Traveled to Washington, DC to meet with members of Maine’s Congressional delegation, the Small Business Administration, and the Office of Management and Budget.
- Met several times with the Government Accountability Office (GAO) to provide the industry’s perspective on the proposed whale rules. Senator Snowe requested that the GAO conduct the report after NMFS could not provide evidence or assurances that it fully analyzed various options for alleviating the economic impact on Maine lobstermen.
- Attended the Take Reduction Team meeting in Virginia.
- Met with the editorial boards of Maine’s major newspapers to ensure that they understand the lobster industry’s position on the whale rules.
- Met with the Governor to raise awareness of the lobster industry’s concerns over the whale rules and ensure full support from the state.
- Hired a contractor to conduct a new analysis of whale sightings data and an analysis of the probability of large whales encountering Maine lobster gear.
- Organized a series of industry meetings to educate the lobster industry on the requirements of the new whale rule and get widespread feedback before formulating a position. The MLA also met several times with the Downeast Lobstermen’s Association.
- Submitted new information to National Marine Fisheries Service for consideration before they determine the Final Rule, including new analysis of whale sightings data and more realistic numbers with regard to the economic impacts on Maine lobstermen.
- Participated in testing new gear including low profile rope through Maine DMR and experimental sinking line and vertical lines through the Consortium for Wildlife Bycatch Reduction.

The fight for whale rules that will work for Maine is going to wage on for many more years. The MLA will continue to play a leadership role and work to ensure that Maine lobstermen are not the next endangered species.

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### **MAINTAINING THE BAN ON DRAGGER CAUGHT LOBSTERS**

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The groundfish community put forward a bill (LD 170) to the 123<sup>rd</sup> Legislature seeking to legalize the landing of dragger caught lobster in Maine. The MLA took the lead in fighting and defeating this bill. The MLA organized an education campaign targeting both legislators and lobstermen to raise awareness of all of the negative impacts on the lobster fishery of lifting the ban on landing dragger caught lobster. This included a variety of mailings, meetings with legislators and the Governor's Office, and press conferences.

The effort was very successful with well over 500 lobstermen packing the public hearing and lead to a unanimous vote from the Marine Resources Committee to kill the bill. This was a huge victory for the MLA and the lobster industry.

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### **PROTECTING MAINE'S WORKING WATERFRONT**

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The MLA has participated in Maine's Working Waterfront Coalition since it was founded in 2000. Protecting our working waterfronts has remained a priority issue for MLA because we understand that the fishing industry does not have a future if we do not have access to the water.

In 2006, the MLA worked through the Coalition to get two exciting new programs established: the Current Use Taxation Program (to tax waterfront land for its use in commercial fishing) and the Working Waterfront Access Pilot Program (to provide matching funds to secure coastal waterfront land with the facilities, capacity, and services needed to support commercial fisheries businesses). The MLA has been working to monitor the success of these programs through the Working Waterfront Coalition.

In 2007, the MLA worked with the Coalition to get additional bond money approved by the Legislature to continue the Working Waterfront Access Pilot Program. This successful effort resulted in an additional \$3 million will be going out to voters in November 2007 for approval.

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### **PROTECTING MAINE'S MARINE WATERS**

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The MLA continued its work in Augusta to protect Maine waters from the spraying of pesticides to control brown tail moth. For the past several years, the MLA has worked closely with the Agriculture Committee, the Board of Pesticides Control and pesticide sprayers to find a long-term solution to this issue. In 2007, the MLA's legislation (LD 875) received unanimous approval from the Agriculture Committee to continue to implement buffer zones in order to keep pesticides out of the water. The buffer zones allow only licensed pesticide applicators to spray with hand held equipment within 50 feet of shore, and stop aerial spraying within 250 feet from shore.

The Board of Pesticides Control will permanently implement this buffer zone approach through rulemaking before January 2008. This establishes an important precedent for protecting Maine waters and our fisheries from pesticide applications. The MLA is also working with the University of Maine and several state agencies to secure funding to continue research into testing our Maine waters and sediments for pesticides.

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## PROTECTING OUR BAIT SUPPLY

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**Herring:** The MLA has been closely monitoring herring management. The MLA supported a ban on midwater trawl fishing in Area 1A during the summer months, which was implemented for the 2007 season. By all accounts, this is making a difference with reports of herring schooling close to shore for the first time in years.

However, two additional management changes occurred in 2007 which threatened our bait supply. The TAC for the 1A fishery was reduced by 10,000 MT for the 2007 fishing season and will be reduced by an additional 5,000MT in 2008 and 2009, and the rules on fishing in spawning closures have been tightened so that fishing is no longer allowed in these areas. Maine took a tough stance to try to allow continued fishing in the spawning closures in 2007, but was threatened with “non-compliance” by ASMFC which would have shut the Maine herring fleet down and stopped the shipment of herring into Maine. The MLA worked with DMR and the herring fleet to rapidly implement a plan to prevent this from happening.

With the reality of less bait coming from Area 1A, MLA reached out to the ASMFC to ensure that Maine would have a steady bait supply through our important Fall fishery. In response, the ASMFC voted that to implement a “days out of the fishery” program to ensure that the TAC for Area 1A will last throughout the Fall.

**Alternative Baits:** The MLA has closely monitored the discussions concerning alternative baits and played a critical role in getting legislation passed that allows Maine DMR to regulate the use of alternative baits. In 2007, Maine DMR is moving forward with new rulemaking to require all alternative bait manufacturers to label their products with a list of ingredients.

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## ASMFC LOBSTER MANAGEMENT

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**Maximum Gauge Protection for All Lobsters:** The MLA has worked for decades to expand protection of oversized lobsters outside of Maine. Our first victory was in 1997 with the passage of the lobster management plan, Amendment 3, which extended Maine’s oversized and vnotch protection beyond Maine state waters to include all of Area 1 (Maine, New Hampshire and Massachusettes to Cape Cod out to 40 miles).

In 2007, the ASMFC, with strong support from our Maine Commissioners, voted to create a maximum gauge for all lobster management areas, with the exception of the Outer Cape. Area 3 will begin with a maximum gauge of 7” and go down 1/8” for two years down to 6 ¾”. Areas 2, 4, 5, 6 will go to 5 ¼”. This applies to both trap and non-trap fisheries.

**Mandatory Reporting:** 2007 saw the implementation of an extremely controversial issue, mandatory reporting for the lobster industry. The ASMFC moved forward with a 2 ticket system requiring both dealers and harvesters to report trip level landings data to ASMFC. This brings Maine into compliance with all other states along the east coast. The MLA expressed concerns with regard to how the data would be used to improve management of the lobster resource and questioned Maine’s ability to collect and process harvester reporting data from the industry. The lobster industry faced non-compliance with ASMFC which would have lead to a shut down of the fishery. In the end, a compromise was reached requiring only 10% of lobstermen (chosen at random) to participate in trip level reporting in any given year. The information required for submission by dealers and the 10% of harvesters will include species landed, gear used, pounds landed, # traps, set time and average price received.

**Lobster Management Plan:** The ASMFC began work on a new lobster management plan, Amendment 5, which considered several major changes to the management plan. The MLA supported the ASMFC establishing a uniform v-notch definition for all management areas, establishment of a maximum gauge for all areas, a moratorium on the transfer of federal permits between management areas to stop new effort coming into Area 1 and supported a complete ban on the landing of lobster from the non-trap sectors. The ASMFC has not taken action on this new plan to date.

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### EDUCATING MAINE'S LEGISLATORS

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The MLA reached out to those seeking office in the Maine Legislature. During the Fall of 2006, the MLA organized a series of 3 candidate nights to bring candidates running for office together with members of the lobster industry. These meetings served to educate those running for state office about the issues facing the lobster industry and to allow the industry to question incumbents seeking reelection on their past voting records. These meetings were a great success.

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### IMPROVING ENFORCEMENT

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The MLA put legislation forward (LD 16) to make trap molesting a civil, rather than criminal, offense. The purpose of this law is to increase the conviction rate of cases made by Marine Patrol, not reduce the severity of the charge. Decriminalizing the law changes the standard of proof from "beyond a reasonable doubt" which requires all jurors to agree to a conviction to a "preponderance of evidence" which requires only a majority of jurors to agree to the conviction. Either way, the judge or jury must decide whether the lobsterman is guilty based on the merits of the case. Decriminalizing the law will hopefully avoid those good cases being lost due to a single juror. This law goes into effect in September 2007.

The MLA has also reached out the Maine Marine Patrol requesting that they step up enforcement of the wet storage rules which are being abused by many along the coast during the off season.

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### SAFETY AT SEA

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MLA Board member, Bob Baines, testified before Congress on Commercial Fishing Vessel Safety. He reported the work on the Maine Commercial Fishing Safety Council and its recommendations for parity among state and federal vessels, eliminating the boundary line in favor of the 3 mile line and requiring federal operators permit holders to take the Drill Conductor course.

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### MAINTAINING A STRONG VOICE

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The array of issues facing Maine's lobster industry is vast, but the MLA is committed to keeping our membership informed and representing the interests of the lobster industry when it matters. To that end, the MLA remains active in many arenas including the ASMFC, Maine Fishermen's Forum, Maine Working Waterfront Coalition, Whale Take Reduction Team, Lobster Advisory Council, Maine Lobster Promotion Council, Lobster Zone Councils, Gulf of Maine Ocean Observing System (GoMOOS), Sea Grant Policy Advisory Committee, Gulf of Maine Lobster Foundation, Lobster Institute, shell disease research executive committee, among others.



**MLA: Our Strength is in Our Numbers**