

**Congress of the United States**  
**Washington, DC 20515**

October 17, 2023

The Honorable Richard W. Spinrad, Ph.D.  
National Oceanic and Atmospheric Administration  
1401 Constitution Avenue NW, Room 5128  
Washington, DC 20230

Dear Administrator Spinrad:

We write to express our serious concerns regarding the proposal by the National Marine Fisheries Service (NMFS) to create a new and expanded critical habitat designation for the Rice's whale, as well to urge the NMFS to reject the harmful requests made in the petition published in docket NOAA-NMFS-2023-0027.

As a coastal state, Alabama relies heavily on commercial activity in and out of the Gulf of Mexico. In 2021 alone, the Port of Mobile generated more than \$85 billion in total economic activity and more than \$2 billion in tax revenue. The Port handles more than 55 million tons of commercial goods each year, reaching every state in the nation and providing clothing, tools, construction materials, automobiles, and parts that Americans rely on each and every day. In addition, Alabama's commercial fishing operations provide more than \$291 million in economic value, and recreational fishing adds another \$452 million in economic value to the region. Combined, these activities directly employ more than 330,000 people in Alabama.

Recent federal government actions have irresponsibly put Alabama's economic vitality and growth at risk despite no legal standing and no evidence that species will actually be saved. The Department of Interior recently proposed restrictions on offshore energy development to accommodate the Rice's whale's endangered species designation, imposing burdensome prohibitions on industry engaged in nighttime and low visibility transit and additional restrictions on vessels that support offshore energy development associated with a forthcoming oil and gas lease sale in the Gulf of Mexico. Although these proposed restrictions were overturned by the courts, it is clear that leftwing environmental activists intend to continue rushing to codify misguided regulations on vessel traffic.

While protecting endangered species is a laudable goal, we are concerned at the lack of adequate scientific justification for NMFS' proposed designation of additional critical habitat for the Rice's whale. NMFS has shown only limited studies offering indefinite scientific support to draw conclusions about the population and range of the Rice's whale. Until sound, scientifically supported data is available, this designation should not move forward.

The foundation of critical habitat designations should rely on rigorous research that allows all reviewers the ability to accurately assesses the habitat requirements and the ecological needs of the endangered species. NMFS' current proposal undermines the credibility of the designation

and future conservation efforts, and it risks the balance between species protection and critically important economic development, employment, safety, and recreational use.

We also have significant concerns with the seriously damaging ideas in the Rice’s whale petition which NMFS has noticed. The petitioners seek to stop vessel transits at night, require complete reporting of vessel plans to NMFS, and create onerous requirements for vessels to employ and utilize visual observers on all vessels. Severely curtailing operations at the Port of Mobile and strangling the commercial and recreational fishing operations off the Alabama coast, these illogical burdens would cause irreparable harm to the Alabama economy—all while current science does not demonstrate they will save any Rice’s whales.

Considering the very limited scientific basis and the potential for severe, possibly debilitating economic consequences, we urge NMFS not to finalize the critical habitat designation as proposed and to reject the petitioners’ reckless request.

Sincerely,



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Katie Boyd Britt  
United States Senator



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Jerry R. Carl  
Member of Congress (AL-01)



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Barry Moore  
Member of Congress (AL-02)



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Mike Rogers  
Member of Congress (AL-03)



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Robert B. Aderholt  
Member of Congress (AL-04)



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Dale W. Strong  
Member of Congress (AL-05)



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Gary Palmer  
Member of Congress (AL-06)