

United States Senate

WASHINGTON, DC 20510

May 1, 2024

The Honorable Gina Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Deb Haaland
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Raimondo and Secretary Haaland,

We write to express deep concerns with recent proposed rulemakings and potential future actions concerning the Rice's whale. The U.S. Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), including the National Marine Fisheries Service (NMFS), as well as the U.S. Department of the Interior's Bureau of Ocean Energy Management (BOEM), have actively pursued unnecessary measures for the Rice's whale at the expense of communities along the Gulf of Mexico. While we appreciate that NOAA denied the petition to establish vessel speed measures in the Gulf¹ and that BOEM removed Rice's whale stipulations from Lease Sale 261,² we strongly urge that NOAA, NMFS, and BOEM refrain from advancing regulations that lack sound scientific backing.

Look no further than NOAA's own proposed rule designating a critical habitat for the Rice's whale to see that the Biden Administration is relying on "limited data" and generalizations to set consequential regulations.³ The proposal clearly states, "As with its life history, little information exists on the behavior of the Rice's whale."⁴ Even the population estimate for the Rice's whale is based on insufficient data with a massive confidence interval.⁵ NOAA admits that "precision of all estimates is poor."⁶ Instead of gathering data on the specific species in question, the proposal then relies on information for "Bryde's-like whales."⁷ It is unacceptable to impose regulations with significant impacts to coastal communities based on generalizations and poor data.

¹ BOEM issued the [notice of denial of the petition](#) (88 FR 20846) on October 27, 2023.

² BOEM's [Notice to Lessees and Operators](#) on "Expanded Rice's Whale Protection Efforts During Reinitiated Consultation with NMFS" was not included in the [Revised Final Notice of Sale](#) for "Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 261."

³ See Endangered and Threatened Species; Designation of Critical Habitat for the Rice's Whale, 88 FR 47453, July 24, 2023.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*


⁷ *Id.*


In addition, the sources that NOAA cites to justify the rulemaking are questionable. The proposed rule includes four references to Garrison et al. (2022), a technical memorandum issued by NOAA that was “not subject to complete formal review, editorial control, or detailed editing.”⁸ Furthermore, the proposed rule justified the massive critical habitat expansion by citing whaling records from the 1700s and 1800s.⁹ Data that is more than 100 years old is surely not the best available science.


While NOAA and BOEM’s data is incomplete, we do have a robust understanding of the economic impact of the Gulf of Mexico. Our ports provide a clear view of commercial activity in and out of the Gulf. In Texas, the Port of Houston generated \$439 billion in statewide economic value in 2022.¹⁰ Ports across the state of Louisiana generated \$182 billion in statewide economic impact, which includes nine ports located directly on the coast.¹¹ In Alabama, the Port of Mobile generated more than \$85 billion in total economic activity in 2021.¹² Imposing restrictions on development in the Gulf of Mexico would directly harm the economic activity and jobs across coastal communities.

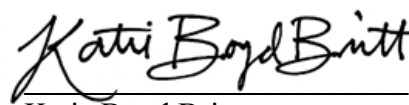
When issuing regulations with such significant impacts to our economy and national security, it is imperative to rely on the best available science. We agree with the importance of the Marine Mammal Protection Act and the Endangered Species Act but caution you to avoid moving forward with regulations without verifiable scientific data. Just yesterday, NOAA announced supposed sightings that “could be used to improve the Rice’s whale abundance estimate,” clearly highlighting that more work is needed before any agency action.¹³ Rather than depending on centuries-old whaling records and non-peer reviewed claims for rulemaking, NOAA and BOEM should gather new, verified data on the species in question.

Sincerely,


Bill Cassidy, M.D.
United States Senator


Tommy Tuberville
United States Senator


John Kennedy
United States Senator


Katie Boyd Britt
United States Senator

⁸ *Id.*

⁹ See “[Insights from Whaling Logbooks on Whales, Dolphins, and Whaling in the Gulf of Mexico](#),” Reeves, Lund, Smith, and Josephson, *Gulf of Mexico Science* 29, 2011.

¹⁰ See “[Port Statistics](#),” Port Houston, 2022.

¹¹ See “[Louisiana Ports Deliver! Growing Jobs, Driving the Economy](#),” Ports Association of Louisiana, 2016.

¹² See “[Alabama’s Port Triples Economic Impact, Delivers \\$85 Billion in Value to State](#),” Port of Mobile, 2021.

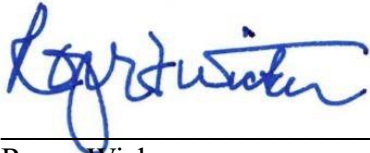
¹³ See “[Rice’s Whales Spotted in the Western Gulf of Mexico](#),” NOAA, April 30, 2024.



Cindy Hyde-Smith
United States Senator



Ted Cruz
United States Senator



Roger Wicker
United States Senator