

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

District 4 Lodge of the International Association of Machinists and
Aerospace Workers Local Lodge 207 v. Raimondo

No. 21-1873, 21-1874, United States Court of Appeals for the First Circuit (July 12, 2022)

SUMMARY

The First Circuit vacated a preliminary injunction that had blocked a seasonal closure of a 967-square-mile lobster fishing zone off Maine, designed to protect critically endangered North Atlantic right whales from entanglement in vertical buoy lines. The court held that the National Marine Fisheries Service did not act arbitrarily or capriciously under the Administrative Procedure Act by relying on statistical modeling to define the closure's time and place, even with imprecise inputs, and that the agency adequately explained its rejection of alternative measures. Applying the preliminary injunction standard, the court found plaintiffs unlikely to succeed on the merits and that Congress had placed a "heavy thumb on the whale-side of the equities' scale," making the balance of hardships and public interest favor the endangered species. The case underscores the broad deference afforded to agency factfinding and the weight given to statutory mandates to prevent extinction under the Endangered Species Act.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Kayatta; Lynch; Gelpí
JURISDICTION	Federal
DECIDED	July 12, 2022
DOCKET	21-1873, 21-1874
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from the United States District Court for the District of Maine, Hon. Lance E. Walker, U.S. District Judge. The district court granted a preliminary injunction enjoining enforcement of a seasonal closure of the LMA 1 Restricted Area to lobster fishing. The federal government and intervening conservation groups appealed and sought a stay, which the First Circuit granted. This is the merits appeal of the preliminary injunction.
STANDARD OF REVIEW	We review the entry of a preliminary injunction for abuse of discretion. This deferential standard applies to issues of judgment and

balancing, but we review rulings on abstract legal issues de novo and findings of fact for clear error. We review the district court's legal findings under the likelihood of success prong de novo and the remaining prongs for abuse of discretion.

PRECEDENTIAL VALUE

Published

PARTIES

Federal Defendants-Appellants (Gina M. Raimondo, Janet Coit, National Marine Fisheries Service) and Intervenor-Defendants-Appellants (Center for Biological Diversity, Conservation Law Foundation, Inc., Defenders of Wildlife) v. District 4 Lodge of the International Association of Machinists and Aerospace Workers Local Lodge 207; Damon Family Lobster Company, Inc.; Fox Island Lobster Company, LLC; Frank Thompson

TOPICS

administrative law

judicial review of agency action

endangered species

injunctions

appellate procedure

standard of review

PRACTICE AREAS

Administrative Law

Environmental Law

Appellate Practice

QUESTIONS PRESENTED

1. Whether the National Marine Fisheries Service acted arbitrarily and capriciously in imposing a seasonal closure of the LMA 1 Restricted Area to lobster fishing with vertical buoy lines based on statistical modeling and without more concrete data on whale presence.
2. Whether the district court abused its discretion in granting a preliminary injunction enjoining the seasonal closure.

HOLDINGS

1. The Agency did not act arbitrarily and capriciously. It relied on a peer-reviewed model, acknowledged data limitations, and acted under a statutory mandate to protect endangered species. The district court erred in substituting its judgment for that of the Agency.

KEY QUOTATIONS

“Congress had already placed a heavy thumb on the whale-side of the equities' scale” (4)

“We therefore vacate the preliminary injunction and remand for further proceedings.” (5)

“The Agency most likely did not exceed the bounds of its wide discretion in factfinding by relying on statistical modeling to define the time and place of the seasonal closure.” (3)

FACTUAL BACKGROUND

The North Atlantic right whale is severely endangered. Entanglement in trap lines is a leading cause of serious injury and death. In 2019, the Agency estimated that even one additional death a year increases extinction odds. Following an uptick in right whale deaths in 2017, the Agency considered responses including restrictions on fishing gear and seasonal closure of risky areas. Relying on a peer-reviewed Decision Support Tool model, the Agency decided to restrict fishing with buoy lines from October 18 to January 31 in a roughly 967 square mile area off the Maine coast (LMA 1 Restricted Area). Plaintiffs, including a union of lobster fishers and companies, challenged the regulation.

PROCEDURAL HISTORY

The National Marine Fisheries Service issued a regulation in August 2021 prohibiting lobster fishing with vertical buoy lines in the LMA 1 Restricted Area from mid-October to January. Plaintiffs challenged the regulation as arbitrary and capricious and sought a preliminary injunction. The district court granted the injunction. The First Circuit stayed the injunction pending appeal. After full briefing, the First Circuit vacated the preliminary injunction and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

for further proceedings consistent with this opinion

CASES CITED

- Winter v. NRDC, 555 U.S. 7 (2008)
- Nken v. Holder, 556 U.S. 418 (2009)
- Together Emps. v. Mass Gen. Brigham Inc., 32 F.4th 82 (1st Cir. 2022)
- Water Keeper All. v. Dep't of Def., 271 F.3d 21 (1st Cir. 2001)
- Cablevision of Bos., Inc. v. Pub. Improvement Comm'n, 184 F.3d 88 (1st Cir. 1999)
- Village of Bensenville v. FAA, 457 F.3d 52 (D.C. Cir. 2006)
- Sw. Ctr. for Biological Diversity v. Babbitt, 215 F.3d 58 (D.C. Cir. 2000)
- Strahan v. Coxe, 127 F.3d 155 (1st Cir. 1997)
- TVA v. Hill, 437 U.S. 153 (1978)
- ANSYS, Inc. v. Computational Dynamics N. Am., Ltd., 595 F.3d 75 (1st Cir. 2010)
- Dist. 4 Lodge of the Int'l Ass'n of Machinists Loc. Lodge 207 v. Raimondo, 18 F.4th 38 (1st Cir. 2021)
- Dist. 4 Lodge of Int'l Ass'n of Machinists Loc. Lodge 207 v. Raimondo, No. 21-cv-275, 2021 WL 4823269 (D. Me. Oct. 16, 2021)