

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

May 15, 2024

Dr. Rick Spinrad  
Under Secretary of Commerce for Oceans and Atmosphere  
Administrator, National Oceanic and Atmospheric Administration  
1401 Constitution Ave., N.W.  
Washington, D.C. 20230

Dear Administrator Spinrad:

As we celebrate more than 50 years of the Endangered Species Act, we can be proud of its success in preventing 99 percent of listed species' extinctions. The Rice's whale is one of the most endangered marine mammals, with a best estimate of 51 individuals remaining. Losing a single animal due to human activities jeopardizes the species' survival. We urge the National Oceanic and Atmospheric Administration (NOAA) to prioritize science-based conservation measures to protect Rice's whales from extinction.

We commend you and your agency for your essential work in coordinating research, taking steps to designate critical habitat, and educating the public about this extraordinary part of our country's natural heritage. However, more action is urgently needed to sustain and recover the Gulf of Mexico Rice's whale population. The survival of this species hinges upon NOAA's ability and willingness to finalize protections for Rice's whales and their habitat.

In July, NOAA proposed designating critical habitat for the whales under the Endangered Species Act based on an extensive, five-year study and multiple publications in peer-reviewed scientific journals. The evidence indicates that the species occupies a narrow strip of habitat along the continental shelf break across the northern Gulf of Mexico. We urge your agency to act expeditiously to finalize the proposed critical habitat designation.

Rice's whales are acutely vulnerable to vessel strikes because they spend seventy percent of their lives near the ocean surface.<sup>1</sup> This is particularly dangerous at night when they are least visible to vessels. Two whales—including one mother whose calf was dependent on her for food—were hit by vessels,<sup>2</sup> and your agency found that mortalities from ship strikes are likely to exceed what the species can sustain significantly. Much of this risk comes from the oil and gas industry. NOAA determined that oil and gas vessels represent about one-third of the total strike risk.<sup>3</sup>

In recent testimony before the House Natural Resources Committee, Dr. Barbara Taylor, one of our country's preeminent marine mammal biologists, compared the Rice's whale to an

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<sup>1</sup> Soldevilla, Melissa S., et al., Spatial distribution and dive behavior of Gulf of Mexico Bryde's whales: Potential risk of vessel strikes and fisheries interactions, *Endangered Species Research* 32: 533-50 (2017).

<sup>2</sup> NMFS. Biological Opinion on the Federally Regulated Oil and Gas Program activities in the Gulf of Mexico. March 13, 2020. <https://doi.org/10.25923/hyeh-mb74>

<sup>3</sup> Ibid. See: Table 49.

emergency room patient and described ship-strike reduction as the most important immediate action one could take to prevent the species' extinction. Therefore, we were disappointed by your agency's recent statement that it will not consider any vessel slow-down measures for Rice's whales until a recovery plan (with no statutory deadline) is issued. Slow-downs are a proven method of reducing mortality risk and are employed for various environmental purposes in some of the world's most highly trafficked waters.

Rice's whales are also highly vulnerable to other oil and gas activities, including spills and exploration. According to the government's Natural Resource Damage Assessment, the *Deepwater Horizon* disaster wiped out more than one-fifth of the Rice's whale population. As leasing and oil and gas production continue in the Gulf, the species remains at risk from future spills.

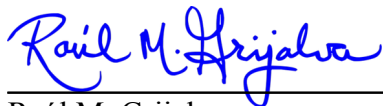
Rice's whales are also at risk from seismic airgun surveys for oil and gas. These surveys, which produce some of the loudest sounds humans make in the water, interfere with foraging and other vital marine mammal behavior over large ocean areas. Unfortunately, they are frequently used throughout marine habitats in much of the northern Gulf. Some Rice's whales are known to be in poor body condition and cannot afford the continued degradation of their habitat. And yet, all but two companies have said they will continue to deploy conventional, high-energy airgun arrays in the Gulf rather than use commercially available technology to reduce their noise output.<sup>4</sup>

In sum, we urge NOAA to:

- Finalize its proposed critical habitat designation,
- Draft and finalize a recovery plan for Rice's whales as soon as possible,
- Implement conservation measures, including measures to reduce vessel strike and acoustic stress, and
- Prioritize agency funding for Rice's whales research and conservation.

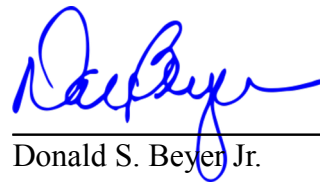
We thank you for your efforts thus far to protect Rice's whales and urge you to act swiftly to prevent their extinction.

Sincerely,



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Raúl M. Grijalva  
Member of Congress



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Donald S. Beyer Jr.  
Member of Congress

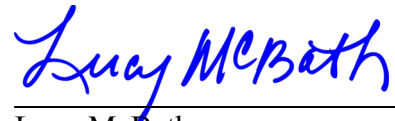
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<sup>4</sup>Eisner, Chiara & McMillan, Nick. NPR Investigations. *Only 51 of these U.S. whales remain. Little has been done to prevent their extinction.* November 16, 2023. <https://www.npr.org/2023/11/16/1212690111/only-51-of-these-u-s-whales-remain-little-has-been-done-to-prevent-their-extinct>



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Debbie Dingell  
Member of Congress



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Lucy McBath  
Member of Congress



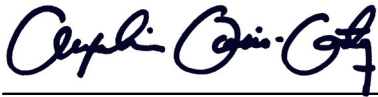
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Sheila Jackson Lee  
Member of Congress



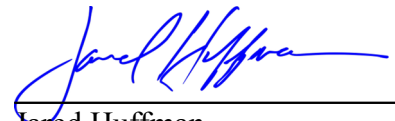
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Steve Cohen  
Member of Congress



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Alexandria Ocasio-Cortez  
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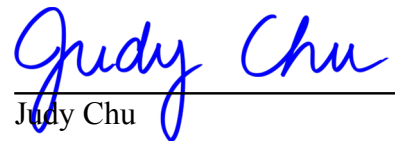
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Jared Huffman  
Member of Congress



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Julia Brownley  
Member of Congress



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Judy Chu  
Member of Congress



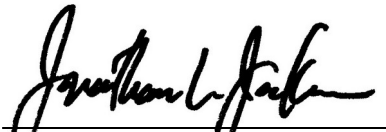
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Jamaal Bowman, Ed.D.  
Member of Congress




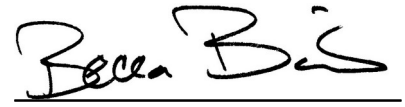
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Jim Tokuda  
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Cc: Janet Coit, Assistant Administrator for Fisheries