



**Maggie Bagley**  
<mecbagley@gmail.com>

---

## Save LBI Litigation Letter

1 message

---

**Maggie Bagley** <mecbagley@gmail.com> Fri, Mar 22, 2024  
at 5:53 PM  
To: Maggie Bagley <mecbagley@gmail.com>

--@everyone. The following litigation was filed today by SaveLBI against the National Marine Fisheries Service and BOEM. CFACT also filed a similar lawsuit in Virginia.

Press Release: Save Long Beach Island Inc.

PO Box 579

Ship Bottom, NJ 08008

[www.savelbi.org](http://www.savelbi.org)

For immediate release: March 18, 2024

Save Long Beach Island Inc. has filed a Notice of Intent to sue the Department of Commerce, the

National Marine Fisheries Service, and the Bureau of Ocean Energy Management on their failure to adhere to the Endangered Species Act with respect to protecting the critically endangered North Atlantic right whale, and other marine animals.

Dr. Bob Stern, the Organization President, stated that: " the Agency's approval of the Atlantic Shores Offshore Wind South project with respect to that Act relied on analysis and reports that significantly underestimate the impact to the whale, and that Save LBI intends to give the whales their day in Court".

Dr. Stern said that the Agency's conclusion in its "Biological Opinion" that not a single right whale would die from the extraordinary amount of noise energy injected into the ocean from the project asks us to believe that:

- the right whale, previously coming within and adjacent to the project area, will no longer come there, thanks to a new computer model,

- low frequency cetaceans, like the right whale, previously said to be “low frequency specialists” and able to communicate over long distances, now no longer hear well at the low frequencies emitted from the project’s pile driving and turbine operations.
- noise dissipates unusually well in New Jersey waters,
- the fatality numbers calculated are reliable, when the animal movement assumptions they are based on are not disclosed,
- the noise level from a 4-pound noise generating device for vessel surveys is the same as that from a 132-pound device,
- even though many whales have died off New Jersey in proximity to wind project vessel surveys, there is no correlation between the two,
- the noise from pile driving a two-thousand ton 50-foot diameter 6-inch thick steel foundation into the seabed with 2000 strikes is not that bad, and can be reduced 90 percent by surrounding air bubbles, and finally and most importantly that,

- the underwater noise from from the operation of a large turbine is the same as for a small turbine.

The attorney for the lawsuit, Thomas Stavola, also stated that "it is concerning that the federal agencies ask for important noise modeling information from the project and its noise consultants, do not receive or independently verify that information, but go ahead and approve the project anyway".

"We cannot get these noise decibel levels wrong" said Stern- "the fate of thousands of marine mammals rests on it". An underestimate of just 10 decibels means that a whale would receive ten times the noise energy than what the Agency predicts.

Dr. Stern added that, "we are always prepared for professional dialogue with the agencies to address these issues, but there has been no effort from them to do so. We therefore look forward to a thorough examination of the law and the facts in Court".

Contacts:

Dr. Bob Stern, President Thomas Stavola Jr. Esq.

Save LBI [tstavolajr@stavolalaw.com](mailto:tstavolajr@stavolalaw.com)

[drbob232@gmail.com](mailto:drbob232@gmail.com)

**Best,**

**Maggie Bagley**

[mecbagley@gmail.com](mailto:mecbagley@gmail.com)