



MAINE

Lobstermen's Association, Inc.

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Michael Pentony
Regional Administrator
Greater Atlantic Regional Fisheries Office
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

April 22, 2019

Dear Mr. Pentony:

I am writing to share the Maine Lobstermen's Association's perspective and concerns regarding the ongoing process to identify and implement conservation measures to protect right whales. The MLA has been involved with the Atlantic Large Whale Take Reduction Team (TRT) since its inception and remains committed to working with your agency through this process.

The MLA is deeply disturbed by the timing of NMFS's release of new information to guide discussions at this week's TRT meeting. Our last TRT meeting was six months ago. NMFS only announced the Take Reduction Target and presented a draft of the Decision Support Tool in recent days. Given NMFS' directive to begin rulemaking at the conclusion of the meeting, the MLA is extremely frustrated to receive such critical and complex information just days before. TRT members are unrealistically expected to reach consensus on management alternatives before the Team has had any input on the Take Reduction Target itself or had adequate time to evaluate and grasp the implications of the new information presented.

NMFS announced the Take Reduction Target of 60% to 80% on April 5 via email with no opportunity for discussion by any TRT member. The MLA communicated our concerns to NMFS staff during the past month about the approach used to set the Take Reduction Target, however staff has been unwilling to adjust the timetable or process in any way in order to preserve the goal of a collaborative, evidence-based stakeholder process that can achieve consensus on effective management alternatives.

Shared Responsibility between US and Canada

The MLA has also pointed out to NMFS staff a critical flaw in the current path the agency is following. The best available information about current risks to the right whale population indicate PBR will never be achieved with management measures implemented unilaterally by U.S. fisheries. The evidence indicates Canadian fisheries are playing an increasingly large role in right whale serious injury and mortality. NMFS has effectively ignored this evidence as it formulated the Take Reduction Target and, in the process, has made no apparent effort to allocate risk to Canadian fisheries in proportion to the significant role they are now playing.

In particular, the MLA has strong reservations about any methodology that attributes serious injury and mortality from unknown gear equally between the two countries as though, counterfactually, the risk from fishing practices in the two countries were equal. Using NMFS' most recent data, serious injury and mortality from 2014 to 2018 is 6.2, with 1.6 confirmed to Canada, 0.2 confirmed to U.S. gear. Furthermore, the majority of rope removed from whales in recent years is larger rope, not consistent with nearshore U.S. gear, which is the majority of gear fished in U.S. waters.

While Canada has done an admirable job recently implementing whale protection measures in the Gulf of St. Lawrence, there has been little discussion of the amount of directed effort in the snow crab fishery from year to year. This year the Gulf of St. Lawrence snow crab quota will increase by 32% compared to last year. Canada has also not implemented whale protection measures in fisheries outside of that region even though right whales continue to use habitats that overlap with many Canadian lobster and snow crab fisheries. Unless the risk from Canadian lobster and snow crab fisheries is accurately reflected in the proposals presented to the TRT, any resulting management measures in U.S. waters cannot credibly be relied on to achieve PBR for the endangered whale population.

The MLA also strongly disagrees that U.S. fisheries should be held accountable for the estimated unobserved serious injuries and mortalities, for which there are no data, under the Take Reduction Plan.

Decision Support Tool

NMFS presented its nascent Decision Support Tool, still under development, to the TRT on April 16, just one week before the meeting. The information was presented via webinar and allotted only 30 minutes for questions from team members. While the MLA supports development of this tool to assess management alternatives, we have serious reservations because the tool is still under development and has not yet been adequately vetted or peer reviewed. Based on the tool's preliminary results produced during the webinar, the MLA is concerned that it will generate unrealistic management alternatives during the TRT meeting, thus undermining the ability of TRT members to reach consensus on critical management issues.

It is our sincere hope that, when completed, the management advice produced by the Decision Support Tool will assist the TRT to identify approaches that will translate into real protections for right whales. As with any modeling effort, it is important that the model utilize the best available information on whales, fishing effort and risk of fishing gear so that its output reflects our general understanding of how these elements interact. Based on the MLA's first look at the tool last week, it did not achieve this.

In order for the TRT process to be successful, stakeholders must have confidence in the analytical tool if we are to make decisions based on its assessment of alternatives. The MLA has numerous concerns regarding the assumptions and data streams used in the tool. We believe other TRT members are likely to have similar reservations about the quality of inputs to the tool. While we are confident that these concerns can be addressed, it is important that they be resolved before the tool is employed in the TRT process. As has often been the case in the past, management advice based on a model's output could change significantly as the model is further refined.

The model uses three inputs: whale density, gear density and severity to determine risk. The model assumes equal weight for these inputs in producing a risk score. The MLA is concerned that equal weighting of these inputs does not produce an output that reflects our current knowledge of whales and the risks posed by fishing gear.

Based on the initial demonstration of the tool, the equal weighting of these inputs will always produce the same outcome: areas with the most gear pose the highest risk. Since the scale of gear density is exponentially higher than whale density, the gear signal swamps the other indicators. In some cases, this is likely an accurate reflection of risk. But in other cases, the tool may predict a higher risk for densely fished areas with little history of whale sightings compared to areas with fishing gear set around feeding aggregations of right whales, or to areas fished with larger, heavy gear often linked to serious injury and mortality.

We request that NMFS and the TRT explore options to add a weighting to the whale inputs based on habitat use, life history, and recent whale distribution shifts. Further, the whale data must be expanded beyond standardized tracks in order to adequately reflect the recent shift of right whales out of the Gulf of Maine and into new habitats, as noted in the published literature. The MLA also requests that NMFS and the TRT explore options to refine the rankings in the severity tool to incorporate data on known serious injury and mortality as it relates to gear type. These issues require further discussion and problem-solving cooperatively in order to realistically address the level of risk associated with whale behavior and recent changes in distribution. The MLA is ready to share ideas on how to improve the model with relevant NMFS staff.

Whale conservation cannot happen without input and cooperation from fishermen. Fishermen must understand the justification for each management measure and how implementation will benefit whale conservation goals. With a common understanding, fishermen can be trusted to adopt the new management plan and maintain their historically high compliance levels. Achieving high compliance is unrealistic if proposed measures have uncertain efficacy and cannot credibly be relied on to reduce risk for whales.

The MLA remains committed to the TRT process and to identifying conservation measures to improve protections for right whales. It is crucially important that those who will be affected by the results of the TRT process are in full support of the methodology and tools used in that process. Before the agency initiates rulemaking, it is imperative that the Decision Support Tool receive thorough consideration by the TRT and undergo a peer review before any management decisions are made. We urge NMFS to schedule a follow-up TRT meeting once the model is refined and a peer review of the tool completed. In the meantime, the MLA will continue to offer constructive feedback and engage our fishermen on the progress of the TRT.

Thank you for your consideration.

Best regards,



Patrice McCarron
Executive Director

cc. Jon Hare, Northeast Fisheries Science Center
Patrick Keliher, Maine Dept of Marine Resources
Senator Susan Collins
Senator Angus King
Representative Chellie Pingree
Representative Jared Golden