



# MARINE MAMMAL COMMISSION

24 June 2022

Ms. Janet Coit  
Assistant Administrator for Fisheries  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3225

Dear Janet:

It was good to hear from you recently. We have appreciated the chance to work with Kim Damon-Randall and others on the 50th Anniversary of the Marine Mammal Protection Act (MMPA) Hill briefings over the past few months. We are very pleased to report recent developments here at the Marine Mammal Commission (the Commission), including President Biden's appointment of Dr. Frances Gulland as the Chair of the Commission and the nomination of Drs. Sue Moore and Andy Read as Commissioners. We are working with the Senate on their confirmation process. I am writing following the recent meeting of the Atlantic Large Whale Take Reduction Team (ALWTRT) and in advance of a next meeting, whenever that should occur.

As you know, the ALWTRT met in May to consider mitigation measures that could reduce the likelihood of North Atlantic right whales encountering, becoming entangled in, and being seriously injured or killed by the gear used in the east coast gillnet and non-NE lobster and Jonah crab pot/trap fisheries (the Phase II fisheries). We were impressed by the degree of cooperation among the ALWTRT members. Much of the acrimonious polarity that the ALWTRT has experienced at times in past meetings was absent or minimally evident. In addition, the Commission is very appreciative of your agency's insistence that the ALWTRT recommend a suite of measures with the potential to reduce entanglement risk by 90 percent. While the Science Center's modeling team worked diligently and for long hours using the Decision Support Tool to estimate the risk reduction achieved by each measure or suite of measures put forth by the ALWTRT, their efforts unfortunately were hampered by the Northeast Fisheries Science Center servers being offline much of the week.

A typical package of Phase II options developed by the ALWTRT included some degree of the use of weak rope or insertions, existing or new static time-area closures, and the removal of buoy lines by trawling up or removing the buoy line from one end of a trawl. This approach was very similar to that taken in Phase I when the ALWTRT identified measures to reduce the likelihood and severity of entanglement in the pot/trap gear used in the NE lobster and Jonah crab fisheries (the Phase I fisheries). The suite of Phase I measures identified by the ALWTRT and eventually implemented, with modifications, was estimated to have the potential to reduce risk by roughly 60 percent. That risk reduction was at the lower end of what the National Marine Fisheries Service (NMFS) had estimated was needed to reduce serious injury and mortality to a level below the stock's Potential Biological Removal level (PBR), as required by the MMPA. At the time, the Commission urged NMFS to adopt measures that would fully take into account the estimated total number of

serious injuries and mortalities and reduce risk by 80 percent, but the ALWTRT and NMFS were unable to realize that goal.

Since Phase I, NMFS scientists have determined that the total risk to North Atlantic right whales posed by all fisheries needs to be reduced, not by 60 or 80 percent, but by at least 90 percent to account for all serious injuries and mortalities due to entanglement (observed and cryptic), and the significant decline in the number of North Atlantic right whales that has occurred since the ALWTRT addressed the Phase I measures in 2019. The Commission agrees with updating the risk-reduction target, and strongly urges that NMFS affirm the need to achieve the 90-percent risk-reduction target for Phase II fisheries, and, most critically, that the same target be applied, in Phase III, to the Phase I fisheries. The population trajectory of the North Atlantic right whale reminds us of where the vaquita was in 2007 when its population was estimated to be 245 animals (95% Confidence Interval 68-884). Despite the demographic and many other differences between the two species, there is a real possibility that the North Atlantic right whale will soon be, like the vaquita, on the brink of extinction.

The Commission strongly urges NMFS, NOAA and the Department of Commerce to take bolder steps toward recovery. For 25 years NMFS has made incremental changes to risk mitigation for North Atlantic right whales, but tragically, has not succeeded in putting the species on a long-term trajectory toward recovery from the decimation caused by centuries of whaling. Innovative and transformational changes in fishing practices are required that will largely eliminate the risk of a North Atlantic right whale being entangled in fishing gear.

The risk-reduction gap between what is required, 90 percent, and what the Phase I measures are expected to achieve, 60 percent, cannot be bridged with more of the same. Along with several other ALWTRT members at the May meeting, we concluded that much more stringent or entirely different measures will be required to reach the 90-percent goal. Line reductions through trawling/paneling up or switching to single end lines, modest static time-area closures, and weak line/inserts will not get us there. As members of the ALWTRT we argued in the last meeting that in our judgement the only chance of reaching that goal is through some combination of substantially larger and more numerous time-area closures, the use of dynamic management areas equally effective as those used by Canada, fishing effort controls that directly cap static buoy line numbers, and the use of “on-demand” gear.

NMFS is supporting the ALWTRT and management efforts with very strong science. Important survey and monitoring efforts have increased our knowledge of where right whales are and when, although gaps remain in what we know about summer distribution and movements between known areas of concentration. These gaps contribute to the difficulty of garnering acceptance of mitigation measures.

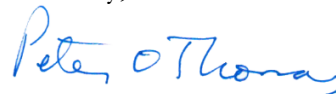
We support NMFS in its continued concerted action to minimize the other major threat to the species – vessel strike. We have provided comments on the NMFS report on the vessel-speed rule, and have had very positive discussions with your staff on development of the forthcoming revised rule. We greatly appreciated Caroline Good’s presentation during our recent webinar on Federal Agency Approaches to Reducing Vessel Strike of Cetaceans.

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The Commission is ready to assist you in these endeavors to enhance protections for North Atlantic right whales, for example by working to further inform Congress of the importance of these measures and the need for policy support and resources to make them a reality. We will continue to support the advancement of pop-up “on-demand” gear, as we have with small grants since 2016, and aid NMFS in exploring better ways to monitor right whale presence and distribution throughout the year. These Congressional outreaches and other activities would be made more effective by regular briefings from your agency regarding strategy and actions to protect North Atlantic right whales. In this regard, we appreciate your invitation to set up a briefing in July. Thank you for your help in getting this scheduled.

I hope that you find these comments and ideas helpful, and we look forward to ongoing discussion and collaboration.

Sincerely,



Peter O. Thomas, Ph.D.,  
Executive Director