



MARINE MAMMAL COMMISSION

28 November 2023

Mr. Chris Yates, Assistant Regional Administrator
Protected Resources Division
West Coast Regional Fisheries Office
National Marine Fisheries Service

Dear Mr. Yates:

On 29 September 2023, NMFS published a ‘notice of scoping’ and ‘request for comment’ regarding the remit for a TRT to be established under the MMPA (88 Fed. Reg. 67254). Specifically, NMFS is seeking input on whether Category I or II commercial fisheries, other than the Category II CA/OR/WA sablefish pot (SP) fishery, that incidentally kill or seriously injure ‘strategic’ Central America/Southern Mexico (CASM) and Mainland Mexico (MM) humpback whales should be addressed by the TRT. The Commission, in consultation with its Committee of Scientific Advisors, herein provides recommendations regarding the scope of the TRT.

The MMPA requires that NMFS 1) “develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a [Category I or II] commercial fishery,” and 2) as part of that process, establish a TRT to develop and submit a draft TRP to NMFS. Further, the MMPA requires that NMFS implement a TRP that will reduce each stock’s MSI due to interactions with *all* commercial fisheries to less than PBR within six months and to less than ZMRG within five years.

Humpback whales from the CASM and MM stocks are taken regularly by several fisheries on the West Coast, including, in addition to the SP fishery, the California, Oregon, and Washington Dungeness crab pot (DCP) fisheries and the California spot prawn pot (CSPP) fishery. The 2022 CASM and MM humpback SARs found that CASM MSI is over two times greater than PBR, and MM MSI is greater than ZMRG but less than PBR. CASM MSI will have to be reduced by greater than 59 percent to get it below PBR. However, even reducing CASM MSI in the SP fishery to zero would be expected to decrease the total fisheries MSI by just 20 percent. Therefore, the only approach that would be expected to reduce CASM MSI to less than PBR would include in the TRP the DCP fishery, which accounts for 71 percent of all CASM MSI. A reduction sufficient to reduce CASM MSI to less than ZMRG over five years should be similarly successful for the MM stock.

Therefore, the Commission recommends that NMFS establish a TRT for the CASM and MM humpback whale stocks and task the TRT with drafting a TRP expected to achieve the requisite reductions in CASM MSI due to the DCP and SP fisheries. In addition, the Commission recommends that NMFS consider including the CSPP fishery, which accounted for 8.4 percent of CASM MSI.

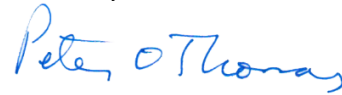
Although MSI due to entanglement in gillnet gear is of a similar magnitude to those of the SP and CSPP fisheries, most gillnet gear recovered from or observed on humpback whales on the West Coast has not been linked to a particular fishery, one of the two California gillnet fisheries is being phased out, and many gillnet entanglements likely involve gear from Mexican fisheries.

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Therefore, the Commission recommends that NMFS and the TRT assess the magnitude of the threat from U.S. commercial gillnet fisheries to CASM and MM humpback whales, and include those fisheries in the TRP only if warranted.

Please contact me if you would like to discuss the Commission's comments or recommendations.

Sincerely,

A handwritten signature in blue ink that reads "Peter O. Thomas". The signature is written in a cursive style with a large initial "P" and "T".

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