



Pacific Fishery Management Council

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Brad Pettinger, Chair | Merrick J. Burden, Executive Director

November 28, 2023

Mr. Chris Yates, Assistant Regional Administrator
National Marine Fisheries Service, Protected Resources Division
501 West Ocean Blvd., Suite 4200
Long Beach, CA 90802-4213

Re: Scoping for a Marine Mammal Take Reduction Team to Address Incidental Mortality and Serious Injury of Humpback Whale Stocks in the Pacific [NOAA-NMFS-2023-0104]

Dear Mr. Yates;

The Pacific Fishery Management Council (Council) appreciates the opportunity to provide input on scoping for a marine mammal Take Reduction Team (TRT) to address incidental mortality and serious injury of humpback whale stocks in the Pacific Ocean as detailed in the [Federal Register Notice](#) (FRN).¹ The Council discussed the proposed TRT at the November 2023 meeting and provides the following comments and recommendations regarding the TRT process.

Our summarized recommendations for this process are:

- **The scope of the action should be limited to the Federal sablefish pot fishery.**
- **TRT membership should be closely aligned with the scope.**
- **Provide more information on the number and meeting format (i.e., in person and remote) of TRT meetings.**
- **Encourage flexibility regarding the meeting format to accommodate all participants.**
- **Continue close coordination with the Council.**

Scope

The FRN proposes to establish a TRT to address the incidental mortality and serious injury to the Central America/Southern Mexico- CA/OR/WA and Mainland Mexico- CA/OR/WA humpback whale stocks. The scope of fisheries covered by the TRT would, at minimum, address the Federal sablefish pot fishery but could be expanded to consider other fisheries in the Pacific Ocean. The Council recommends that the scope be limited to the Federal sablefish fishery off the West Coast (WA, OR, CA) since pot and trap fisheries targeting sablefish generally represent the majority of documented groundfish fishery interactions with humpback whales along the U.S. West Coast.² The Council notes the Federal sablefish pot fishery has not exceeded the 2020 Biological Opinion thresholds of five individuals observed or estimated in any one year or a 5-year running estimated

¹ Federal Register Notice Volume 88, No 188, Friday, September 29, 2023, pg. 67254

² [Agenda Item H.6.a, GESW Report 1, June 2023](#), page 7.

average of 2.34 individuals per year whale in this fishery.³ The Council further notes there have been only two documented takes of a humpback whale in the Pacific Coast groundfish pot fisheries—one in the Limited Entry (LE) sablefish pot fishery sector in 2014 and one in the Open Access Fixed Gear (OAFG) pot fishery sector in 2016.⁴ Given this information, the Council recommends the TRT scope be limited to the Federal sablefish pot fishery at this time.

TRT Membership

The Council recommends the TRT membership be closely aligned with the scope of this action. Our recommendation for the scope, as noted above, should be limited to the Federal sablefish pot fishery. The TRT membership should therefore have expertise on the Federal sablefish pot gear fishery. The need for relevant expertise is supported by the Marine Mammal Protection Act at 118(f)(6)(C) and 16 U.S.C. 1387(f)(6)(C)). Further, specifically, we recommend the TRT include a representative from a treaty tribe be a part of the TRT, as the treaty tribes are an important participant in the sablefish fishery. The Council values the knowledge of our stakeholders and endorses the Groundfish Advisory Subpanel (GAP) recommendations in their statement to the Council regarding industry membership ([Agenda Item E.1.c, Supplemental GAP Report 1, November 2023](#)). It is our opinion that a diverse TRT will produce a better designed Take Reduction Plan (TRP). The Council requests the National Marine Fisheries Service (NMFS) Protected Resources Division (PRD) continue to communicate and coordinate with the Council on this matter so we can recommend appropriate members to the TRT once the scope has been defined.

Meeting Format and Structure

Noted in the FRN, NMFS “committed to issue a notice establishing a TRT by October 31, 2025 and convene the first TRT meeting by November 30, 2025.” At the Council’s November meeting, Mr. Dan Lawson (PRD) informed the Council under Agenda Item E.1 that the TRP process could require multiple meetings over the prescribed time period, which is dependent on the fisheries covered and the associated potential biological removal for the stock. The Council requests more clarity on the number and type of meetings PRD is considering. The Council understands the commitment required by the TRT and we request these elements be taken into consideration when developing the TRT process and schedule. The Council does not have a position on the type of meeting (e.g., in person, webinar, etc.) yet; however, we recommend all meeting types be considered to accommodate as many participants as possible.

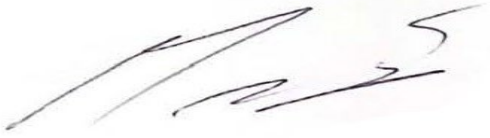
The Council appreciates the information given by Mr. Lawson at this meeting and hopes to continue with our coordinated effort on the TRT/TRP process. The partnership we have developed with PRD is beneficial to our stakeholders in understanding the needs of the TRT and the potential outcomes of the TRP.

³ Estimated Humpback Whale Bycatch in the U.S. West Coast Groundfish Fisheries 2002-2021. [Agenda Item H.6.a, NMFS Report 5, June 2023](#)

⁴ *Id.*

Should you have any questions regarding these Council recommendations, please do not hesitate to contact our Staff Officer, Ms. Jessi Doerpinghaus.

Sincerely,

A handwritten signature in black ink, appearing to read 'Merrick J. Burden', is centered on the page. The signature is fluid and cursive, with a prominent initial 'M' and a long, sweeping tail.

Merrick J. Burden
Executive Director

TMP:acl

cc: Pacific Council Members
Mr. Dan Lawson
Ms. Catherine Marzin
Ms. Keeley Kent
Ms. Kelly Ames
Ms. Susan Chambers
Ms. Katie Pierson
Ms. Jessi Doerpinghaus
Mr. Todd Phillips