

YEAR 2000 RECOMMENDATIONS REPORT
PACIFIC OFFSHORE CETACEAN TAKE REDUCTION TEAM (TRT)
May 11, 2000

MMPA GOALS:

The data for the 1999-2000 fishing season indicate that the entanglement of Cetaceans, especially common dolphins has increased for the first time since pinger use became mandatory. The increase in take was particularly notable in the months of December 1999 and January 2000. This trend appears to replicate a similar increase in January 99 when takes were also elevated to pre-pingered levels. Although takes of marine mammal species addressed by the Pacific Offshore Cetacean Take Reduction Plan are below PBR¹ and takes are below 10% of PBR(the current proposed definition of ZMRG) for all but 3 species, the Take Reduction Team (TRT) is concerned about the increase in take.

Since the TRT is unable to ascertain whether the problem is the result of a decline in pinger effectiveness, the pingers utilized were not fully functioning, or some other variable, *the TRT is recommending a package of measures for the next fishing seasons with the goal of addressing some of the potential causes for a possible trend that has been identified and obtaining additional data to assist in its analysis of appropriate recommendations.*

TAKE PLAN AND REGULATIONS:

Mandatory Deployment of 36' Net Buoy Line Extenders

The requirement to utilize a 36' extender should be continued in accordance with the final rule and technical amendment.

Mandatory Use of Pingers

¹The TRT is concerned about the 1999 observation of an entanglement and death of an endangered species, fin whale, that had not been previously observed caught in this fishery. This single event makes the 3-year average mortality close to or slightly over the PBR for this stock. The TRT acknowledges that rare entanglement events will certainly occur and that a single event can cause the estimated take to exceed the PBR for rare species. More years may need to be averaged to accurately determine whether the fin whale take is truly above its PBR. The TRT does not believe that the fin whale take is necessarily above its PBR and recommends that the situation continue to be monitored.

The Team also recommends that the SRG revisit the issue of whether to use a stratified or un-stratified approach for analyzing data for determining PBR for the fin whale or for other data when there is a small sample size, since each approach yields slightly different results and variances. Utilizing an un-stratified approach, take is under PBR; using a stratified approach, take is over PBR.

1. *The requirement to utilize pingers on both the lead line and float line should be continued.*
2. In the 1999 Recommendations Report, the TRT recommended that NMFS, in cooperation with organizations represented on the TRT should explore opportunities to conduct “research and development” on an alternative pinger that would be attached to the net and left on for the entire season. The intent was to identify a pinger that would increase compliance with the regulations and avoid the safety hazards associated with attaching and removing pingers to the net with each set, especially on the lead line.

At the 2000 TRT meeting, representatives of a manufacturer that has developed a new pinger prototype gave comments to the Team. This new pinger is smaller than the currently available pinger utilized by the fleet, can remain on the leadline and floatline for the full season, is reported to have longer lasting batteries and is reported to meet all of the other specifications outlined in the regulations.

The TRT encourages NMFS to proceed expeditiously to review this new pinger. The TRT encourages fishers to convert to pingers that can be permanently attached to the net when they become available. Recognizing the financial burden of re-supplying a vessel with a different pinger, the TRT supports cooperative efforts between the conservation community and industry to seek funding to assist fishers to obtain pingers that can be attached to the net.

3. There was a discussion among the members of the TRT regarding reports that pingers may not always be properly functioning. This information included comments on the decay of batteries in the pinger and pinger durability. *The TRT encourages fishers to check the operation of each pinger to ensure compliance with the regulations for every set.*

See Mandatory Skipper Education Workshop Topics for additional discussion on pingers.

Voluntary Program to Reduce the Number of Permits

1. At the 1999 meeting, the Team had questioned the preliminary data presented by California Department of Fish and Game(CDFG) staff suggesting that the number of permits issued for the drift gill net thresher shark and swordfish fishery had increased in California from 120 permits in 1997 to 148 permits in 1998. Information provided by CDFG staff at the 2000 meeting indicated that the agency does not re-issue permits that have lapsed and that the data recorded for the 1997 season may have either been inaccurately tabulated or low because of delays recording permit information from various offices. The number of permits issued in 1999 was 139 permits, which is less than the total reported for the prior year.

Accordingly, the TRT encourages the California Fish and Game Commission to continue its policy of not reissuing permits that have lapsed in California and encourages the continuation of the same level of permits issued by Oregon Fish and Wildlife Division.

2. The Team continues to support collaboration among members of the Team to institute a

voluntary California Drift Gill Net permit buy-back program.

Mandatory Skipper Education Workshops

The TRT recommends that NMFS continue to conduct mandatory Skipper Education Workshops during this fishing season and continue this policy annually. It is suggested that workshops be conducted during the same time periods as previous years (August and September) in a number of locations.

Workshops should include the following topics:

- *information on the number of entanglements observed in the 1999-2000 season and the late season trend of increased entanglements*
- *an update on the new pinger product options*
- *new observer data collection efforts regarding the functioning of pingers²*
(See recommendations regarding data collection)
- *approaches fishermen may use to test pinger efficacy*
- *information from the Southwest Center regarding the correlation between sightings of marine mammals and entanglements and how to integrate this into fishing practices*
- *approaches for establishing a real-time communication system among members of the fleet with respect to sightings and entanglements*
(See other fisher strategies)
- *potential relationship between sightings and water color, particularly for greener water (concentrations of chlorophyll)*
- *fisher feedback to improve current strategies and to evaluate possible additional strategies*
- *NMFS policy regarding enforcement of the regulations*

OTHER STRATEGIES

The TRT had an extensive discussion of the data regarding the correlation between sightings and marine mammal entanglements. The data analysis indicated that there were some correlations, but that the significance of the correlations decreased with the use of pingers.

There was also a discussion of variability in the observations and recording of sightings by observers that has generated the data set. However, the TRT believes that this potential correlation is worth further exploration including possible fisher pro-active activities. *The TRT therefore encourages fishers to avoid setting in areas of high sightings and entanglements. They also encourage fishers to establish a real-time communication system regarding sightings and entanglements. This should be discussed at the Year 2000 Fisher Workshops.*

²The fact that the recommendation by the TRT for observers to collect data on the location of pingers, whether the pingers are functioning and that the protocols are based upon collaborative discussions between NMFS, industry representatives and other TRT members should be emphasized at the workshops.

DATA ANALYSIS

The TRT recommends that NMFS conduct a literature search regarding wintertime behavior of the common dolphin to ascertain whether there is any information that might explain the unusual mortality that occurred in the fishery in 1999 and 2000.

DATA GATHERING

1. *The Team strongly recommends that NMFS conduct timely abundance surveys.*
2. The TRT recommends several additions to the data collected by observers as follows:
 - *Observers will check the functioning of pingers (whether they are on or off) and record their findings on the data form. NMFS will work with a subgroup of the TRT to develop the protocol. Testing will occur at the end of the first retrieval, at a minimum. Ideally, testing should occur after each set.*
 - *NMFS should provide a tester for the observers to utilize.*
 - *If a marine mammal entanglement occurs, observers should record whether the pingers in the area adjacent to the take are working.*
 - *Observers should record the type and position of pingers used for each set using a code notation of at least: Dukane, Fumunda, or mixed. This information would be recorded separately for the lead and float lines.*

ENFORCEMENT AND COMPLIANCE WITH THE FINAL RULE

At the 1999 meeting, the TRT agreed that there was a need for better enforcement of the pinger regulations in order to improve compliance. The TRT also agreed that there was a need for the observer data to be as representative of the fleet as possible in order to compute accurate mortality estimates. The Team therefore recommended that

- 1) there be at-sea enforcement that is independent of the observer program**
- 2) observer data should be used judiciously for enforcement**
- 3) an aggressive program should be continued to keep all boats participating in the observer program and monitor success of this program**
- 4) monitor the rate of compliance from boardings of boats without observers to see if it is different from the observed sets**

Based upon the information presented at the 2000 annual meeting, the Team recognizes that compliance is improving, but is still a problem. **Accordingly, the Team reiterates the**

recommendations on enforcement and compliance that it made the prior year.

The TRT is disappointed that the Agency was unable to implement at-sea boardings during the ~~1999~~ 2000 fishing season. However, the TRT strongly recommends again that an aggressive program of at-sea boardings in cooperation with CDFG and the U.S. Coast Guard be implemented to enforce the Take Reduction Plan regulations.

The TRT encourages enforcement actions to be pursued and captains notified prior to the start of the next fishing season.

OTHER RECOMMENDATIONS

Turtle By-Catch

The TRT endorses NMFS providing a turtle expert for future meetings to consult with the Team regarding whether any strategies proposed would negatively impact turtles.

Inconsistencies Between Sections of the MMPA and Implications for the TRT Process

The TRT recommends that NMFS craft a remedy for the inconsistencies that may exist between Section 118(f) and Section 101(a)(5)(E) of the MMPA which may undermine the ability of fisheries to obtain a permit while take reduction plans are being successfully developed and implemented.

Gear Conversion Alternatives

In response to a proposal to encourage the PFMC and CDFG to explore partial conversion of the California gill net fishery to long line, the Team agreed to the following:

The TRT supports the exploration of more selective gears for use by the California commercial drift gill net fishery that can demonstrate reduction of by-catch. There were concerns whether long line gear could achieve that goal. ³

REDUCTION IN FISHING EFFORT

If the implementation of the measures recommended above are not effective in eliminating the

³ Discussion of gear conversion options had been considered by the TRT during its 1996 plan development deliberations. The mandatory conversion of the entire fleet to other gear types, including longline, had been considered but rejected. See pages 63-64. Final Take Reduction Plan August 1996.