Atlantic Large Whale Take Reduction Team Meeting
MAY 10, 2021 | HELD VIRTUALLY

KEY OUTCOMES MEMORANDUM

I.   Welcome, introductions and meeting objectives

NOAA's National Marine Fisheries Service (NMFS) convened a meeting of the Atlantic Large Whale Take Reduction Team (ALWTRT or Team) on May 10, 2021. The meeting was held virtually via Zoom due to restrictions on meeting in person during the COVID-19 pandemic. The meeting was recorded.

The objectives of the meeting were to review and provide further input from the Team on the data inputs into the decision support tool (DST) and take steps towards developing scoping input from Team members for the June/July 2021 meeting.

Team Coordinator Marisa Trego opened the meeting and welcomed new members to the Team. Bennett Brooks, Consensus Building Institute (CBI) Facilitator, reviewed the meeting agenda, zoom participation protocols, and Team discussion ground rules.

II.   Participation

Forty-nine (49) of 60 Team members or their alternates participated during the meeting:

1. Terry Alexander
2. Regina Asmutis-Silva
3. David Borden
4. Colleen Bouffard
5. Scott Buff
6. Barbie Byrd
7. Beth Casoni
8. Colleen Coogan
9. Alex Costidis
10. Karson Coutre
11. Jane Davenport
12. Greg DiDomenico
13. Cindy Driscoll
14. Erica Fuller
15. Pat Geer (Alt)
16. Clay George
17. Bob Glenn
18. Sonny Gwin
19. John Haviland
20. Dennis Heinemann
21. Bob Kenney
22. Toni Kerns
23. Amy Knowlton
24. Scott Landry
25. Charlie Locke
26. Kristy Long
27. Ben Martens (Alt)
28. Greg Mataronas
29. Patrice McCarron
30. William McLellan
31. Richard Merrick
32. Kristen Monsell
33. Bob Nudd, Jr.
34. Scott Olszewski
35. Cheri Patterson
36. Charlie Phillips
37. Tom Pitchford
38. Kristan Porter
39. Chad Power
40. Nicholas Record
41. Meghan Rickard
42. Arthur Sawyer
43. Brian Sharp
44. Erin Summers
45. Kevin Wark (Alt)
46. Mason Weinrich
47. David Wiley
48. John Williams
49. Barb Zoodsma

Additional alternates in attendance were Dee Allen, Erin Burke, CT Harry, David Matilla, Kim McKown, Heather Pettis, Caitlin Starks, Megan Ware, Colleen Weiler, and Renee Zobel.

NMFS Greater Atlantic Regional Fisheries Office (GARFO) staff in attendance were Colleen Coogan (Team member), Jennifer Goebel, Meredith Moise, David Morin, Danielle Palmer, Ainsley Smith, Marisa Trego, and Chao Zou. NMFS Northeast Fisheries Science Center (NEFSC) staff in attendance were Danielle Cholewiak, Sean Hayes, Allison Henry, Allesandra Huamani, Michael Asaro, Alicia Miller, Andre Price, and

Buron Shank. NMFS Southeast Regional Office (SERO) staff in attendance were Jessica Powell, Kara Shervanick, and Barb Zoodsma (Team member). Additional attendees were Jaclyn Taylor (Office of Protected Resources), David Hilton (SERO Fishery Liaison), and Katie Moore (U.S. Coast Guard).

The meeting was facilitated by Bennett Brooks and David Plumb of the Consensus Building Institute (CBI), with Elizabeth Cooper, Cameron Hager, and Maggie Osthues assisting. The meeting was also attended by 12 members of the public.

III.   Presentations
A. Decision Support Tool model development
Mike Asaro and Burton Shank led a presentation on the status of the development of the DST model and potential management actions to incorporate into the DST. The presentation included review and discussion of the following topics:
- preliminary co-occurrence models by fishery
- fishery input for baseline model runs
- revisions to the model to account for day-setting of gillnet gear using soak times
- development of threat models for trap/pot and gillnet fisheries and a more inclusive and complex accounting of threat overall, including better understanding the nature and probability of gillnet entanglements
- key questions regarding whale distributions and habitat models

This presentation built on information shared by the DST team in a series of caucus meetings on the DST prior to and in preparation for the May 10 team-wide meeting. Those meetings covered the status of the model, reviewed the assumptions and parameters of the model as applied to gillnet and other trap/pot fisheries, and sought team input regarding considerations relevant to these fisheries to strengthen the model.

B. Risk reduction target and next steps
Colleen Coogan reviewed the targets and goals of the Take Reduction Process for 2021. The current goal is to reduce risk by 60-80% for commercial US Fisheries. The 2021 focus of the team is to reduce risk for coastwide gillnet, other trap/pot (Atlantic mixed species including finfish, conch and blue crab), and Mid-Atlantic lobster/crab fisheries. (C. Coogan noted that the upper range of the risk-reduction target using 2010-2018 data and given varying assumption is likely to be 78-90% reduction in M&SI.)

The MMPA short-term goal is to reduce incidental mortality and serious injury of marine mammals from commercial fishing to less than the potential biological removal level (PBR). PBR is the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. PBR for right whales is less than one per year. C Coogan said she expected PBR to be updated shortly to about 0.7 per year. C. Coogan reviewed the assumptions influencing risk reduction calculations, including country of origin, cause of serious injury or mortality (e.g. vessel strike versus entanglement), and various apportionments of estimated unobserved mortalities, which together inform the risk reduction range that the agency is seeking of 60 to 80%. C. Coogan provided examples of possible options for the Team to consider, including broad-based precautionary changes to gear, extension of current seasonal gear modifications to year-round, as well as additional, targeted risk-reduction approaches such as seasonal restricted areas based on high co-occurrence or risk "hot spots."

C. Recommendations for Team process improvements

B. Brooks, CBI, provided a summary of input regarding the Team process, based on conversations CBI held with team members in winter 2021. Broadly, themes CBI heard include the following:

- Widespread frustration with TRT, yet nearly all still see continued value
- Clear and well understood Agency goals are key to focusing Team deliberations
- "One big meeting" not generating good outcomes
- Single-minded drive for consensus recommendation seems counterproductive at times
- Trust-building needed to put Team on stronger ground – with each other and with the Agency

In response to this input, CBI identified several potential process interventions to strengthen Team dynamics going forward:

1. The following proposals have already been implemented by NMFS and CBI:
- Have multiple meetings in a more iterative process
- Provide important context and information pre-meeting
- Create space for understanding tools and meeting aims
- Ensure careful facilitation of cross-caucus discussions
- Conduct scoping PRIOR to obtaining team recommendations so that Team recommendations benefit from scoping input

2. The following proposals were considered ripe to discuss among the team, and CBI elicited some feedback and tested preferences on potential responses during this meeting (these preferences are summarized below):
- How the Team interprets its consensus mandate
- Post-meeting transparency/update needs
- Using small groups to make progress
- Broadening/shifting voices in the mix

3. CBI recommended the following issues be deferred to discuss once the Team is able to meet in-person again (i.e., once COVID-19 restrictions are lifted):
- Building trust and addressing tension points
- Improving mutual accountability
- Strengthening use of Agency and researcher science
- TRT in the context of longer-term push for ropeless
- ESA-MMPA nexus

IV. Discussion themes

Below is a synthesis of key themes raised during the meeting in response to the content shared and questions posed for discussion during the presentations summarized above. Following the presentations, a time for public comment was provided. No comments were offered.

A. DST inputs and revised model development

i. Requests for analysis of management options or interventions

Team members put forward various management changes to consider testing in the DST model and sought feedback on the type of information needed for modeling possible risk-reduction options. In general, the DST team explained that proposals should be as specific as possible, including detailing the spatial and temporal extents of options to test:

- What would be the risk analysis of either a) soak time restrictions for gillnets (e.g. no overnight soaks) or b) increased tending requirements in state's waters fisheries for gillnets?
- Is there a scientific basis for distinguishing tended gear from untended gear? Is there evidence that entanglements could be averted or disentangled in these cases?

ii. What data is available as evidence of entanglement risk from particular gear types?

- Team members requested additional information on instances of known gillnet entanglements and what information was available about the types of gear involved in those cases, including if the fishery involved could be identified from the gear size and type involved (e.g. mesh size).
- Team members provided feedback to NEFSC on draft co-occurrence models shown in the presentation and suggested refinements based on on-the-ground knowledge of fisheries:
  - Members noted that the co-occurrence map appeared to show interactions for fish pot and conch fisheries further than those fisheries extend, given that they are very near-shore fisheries.
  - For gillnet fisheries, members emphasized that current data on the intensity of fishing for each fishery is needed to accurately represent the risk, since many of these fisheries have declined in recent years.
  - For gillnet fisheries, members also noted that related effort or gear configuration constraints under the harbor porpoise, bottlenose dolphin, and fishing regulations were not yet evident in the model.
- NEFSC and Team members also discussed the need to understand better how whales use the water column to develop risk assessments of gear at different depths and at different times.
- Additional concerns were raised related to using the DST for gillnet fisheries. Concerns included:
  - The right whale habitat density model is only updated through 2018 (new data indicating increasing use of southern New England might not be adequately accounted for), and does not currently include opportunistic sightings or acoustic data.
  - The spatial distribution of fishing effort is based on VTR rather than VMS data. There is a concern that available VMS data is not fully used to inform effort distributions.
  - It currently includes incomplete state fisheries data.
  - It doesn't currently account for shifts in effort that will occur if two court-ordered closures in southern New England (approx. 3000 nm) are re-opened to gillnet fishing
  - It does not currently account for increased risk associated with certain whale behaviors such as foraging vs. traveling.

iii. How is expert input being sought and incorporated into development of the threat model for these additional fisheries and gear types?

NEFSC is directly gathering information from team members and others familiar with specific fisheries on how they prosecute their fisheries to ensure the inputs into the model are as accurate as possible. To calculate the risk involved in these fisheries and the management actions proposed, NMFS explained that an expert elicitation is planned to gather input to help develop an estimate of risk for fixed gear (including risk associated with rope, net panels, and both combined). NMFS has not yet determined how the expert panel will be selected.

iv. How are baseline risks determined and what years are included in baseline calculations?

Some Team members expressed concerns that the range of years of industry data being used to calculate baseline risks for fisheries were not an accurate representation of the fishery in the present day, as the level of activity in some locations and fisheries has declined over the past decade. NEFSC

explained that it is using a range of years to establish an "average" year, but that it will constrain the data to shorter time periods if there is a clear temporal trend in fishing effort. NEFSC also said it is open to feedback from industry on these considerations.

Data for right whale distribution currently extends through 2018. A new right whale model with data after 2018 is expected in early 2022. Some Team members emphasized that more recent whale distribution models are needed, especially if a "hot-spot" approach to risk mitigation is used. Also, some members suggested using other, currently available data to analyze right whale presence such as data from Dynamically Managed Areas (DMAs) and Slow Zones.

B. 2021 targets and goals
- Some Team members expressed concern with the goal of achieving 60-80% risk reduction across the range of fisheries being discussed, considering the variation in how the fisheries are prosecuted and the belief that for some, the level of activity and/or risk is low already and does not leave much room to reduce risk further substantially. Team members and NMFS discussed possible approaches including a focus on "hotspots" where risk is higher in order to achieve necessary risk reduction. Some Team members expressed concern that a goal of 60-80% risk reduction is not sufficient considering the MMPA requirement to reduce serious injuries and mortalities below PBR.

C. Process improvements for the Team going forward

The Team discussed several of the process ideas that emerged from interviews and small group conversations that the facilitators held with members earlier in the year. As part of the conversation, meeting participants provided input via a Mentimeter poll on four questions. The purpose of the survey questions was to spark conversation in the group. The results, presented below, should not be interpreted as data from the full Team.

i. Transparency and small group meetings
- Some felt that undue emphasis on caucuses to organize small group discussion inhibits cross-caucus dialogue. Others acknowledged the benefit of creating opportunities to organize caucus thinking and input, especially in cases where the caucus doesn't have other existing forums for discussion.
- Some members underscored the benefit of in-person meetings (that is lost when meeting by Zoom) is the opportunity for informal dialogue across caucuses outside of formal sessions.
- Some team members expressed frustration with Agency outreach only to select subsets of Team members following the 2019 meeting, suggesting that such sessions erode trust in the process and compromise transparency overall.

The Team provided input via a Mentimeter poll on the following question: **Agency staff sometimes finds it necessary to consult with individual team members as it seeks to translate Team recommendations into a proposed rule. Which statement do you most agree with?** Most members indicated that a report from the Agency on these conversations, either periodically or only when discussions are likely to result in a substantial shift from Team recommendations, would be appropriate (see bar graph of responses below.)
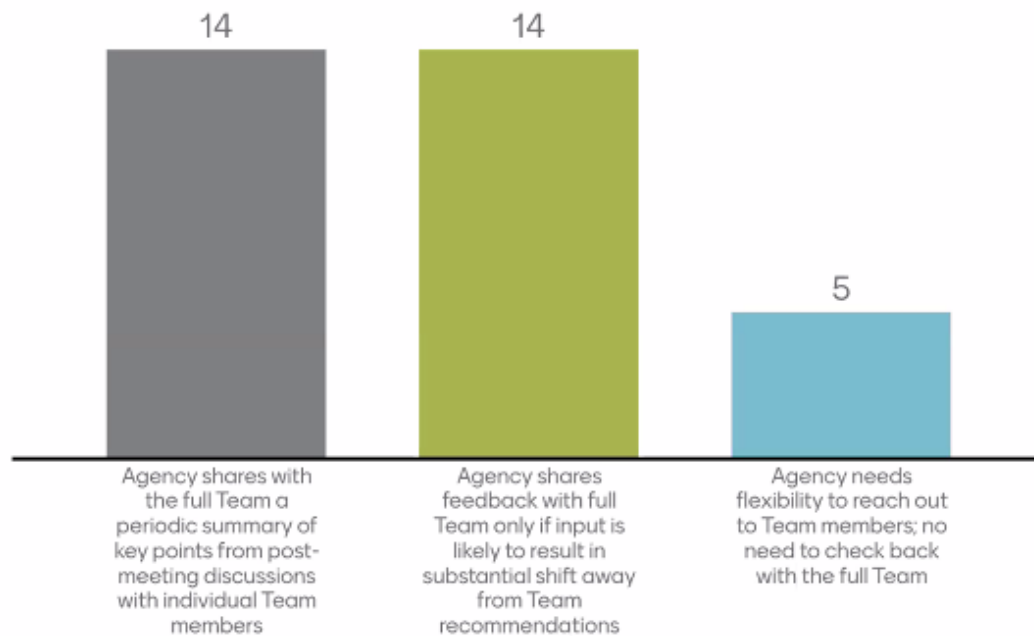
ii. Utility of cross-caucus working groups

The Team provided input via a Mentimeter poll on the following topic: **Using small teams to make progress. Describe the extent to which you agree with the statements below.** (See graph of responses below.)
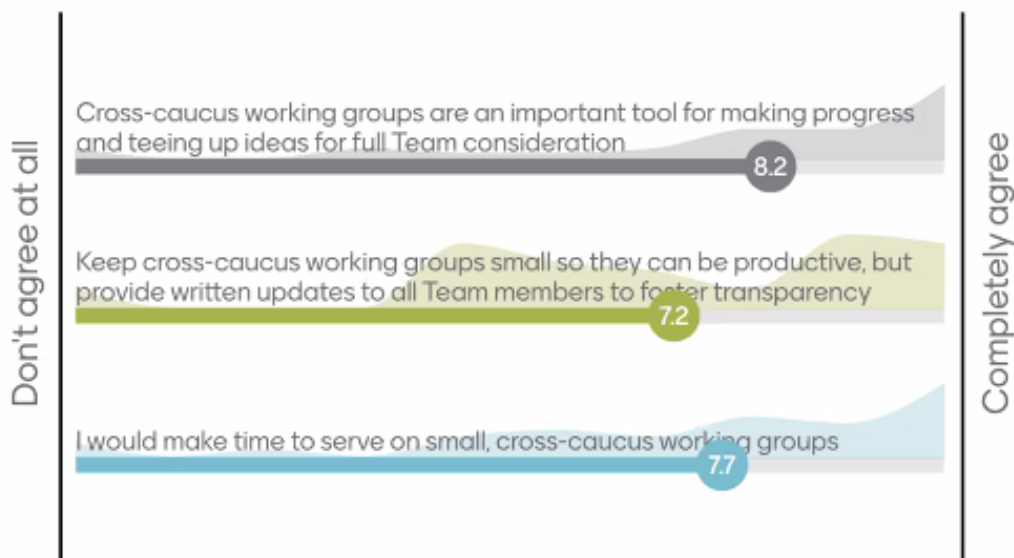

Additional member comments on the use of small cross-caucus groups include the following:
- Some members pointed to the important role that participating in research or other projects with cross-caucus groups plays in helping members understand each other's perspectives.

- Regarding the formation of working groups based around specialized knowledge, such as possible working groups focused on gillnet or humpback whale issues, members provided the following input:
    - Working group membership should encompass all caucuses, but should emphasize membership from those groups that have the most direct knowledge to contribute (e.g. gillnetters should form the majority of the gillnet working group.)
    - If alternates provide more direct expertise or help share the workload of participating in working groups, it may be helpful if they could serve instead of the primary member.

iii. Team composition

The Team provided input via a Mentimeter poll on the following topic: **Broadening/shifting voices in the mix on the Team. Describe the extent to which you agree with the statements below.** (See graph of responses below.)
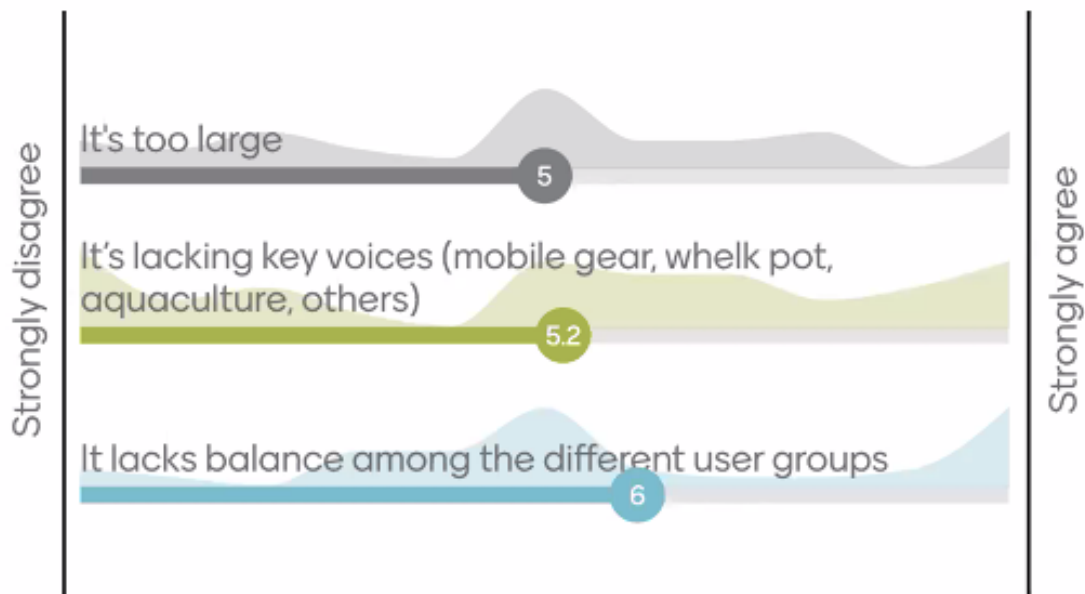
Additionally, the Team discussed the option to bring in key voices not as permanent Team members but participants to provide input for relevant discussions. For example, this was suggested as a possible approach for whelk fishermen, those using mobile gear, and other constituencies.

iv. Emphasis on consensus

The Team provided input via a Mentimeter poll on the following question: **How does our consensus mandate impact the process?** (See graph of responses below.)

Additional member comments on the Team's consensus mandate include the following:
- Even if the Team fails to reach consensus, the mandate to try makes the process powerful compared to the ESA process.
- A mandate to seek consensus when there is significant disagreement on the science and ground rules underlying the process is unrealistic.

V.   Next steps
- Team members:
  - Review fishery data summaries and provide any needed corrections or updates to Burton.
  - Send risk reduction element concepts for potential DST evaluation by May 23.
  - Contact NMFS if interested in serving on the gillnet or humpback whale working groups in the coming months.
  - G. DiDomenico – Provide additional specifics for information sought on overnight soak times (NJ)
  - D. Wiley – Provide referenced data on humpback whale use of water column
- NMFS:
  - GARFO to post meeting materials to a google drive and circulate to Team members.
  - DST team to continue consulting with Team members to develop an accurate representation of gillnet and other trap/pot gear use and management options to develop a threat model. In the longer term, an expert elicitation will inform the risk characterization of gillnet interaction and the threat associated with encounters with gillnet, including by providing more information on whale use of the water column.
  - D. Morin to provide additional information on mesh size found on recovered gillnet gear.
- CBI:

        o   Draft and distribute meeting summary for Team "red flag" review (significant errors or omissions)

Upcoming meetings and deadlines:

May 23rd: Deadline to send risk reduction element concepts for potential DST evaluation (2 weeks)

June 28:   Day 1 of two-day full Team meeting (3-6 pm ET)

July 1st: Day 2 of two-day full Team meeting (3-6 pm ET)

Aug/Sept: Scoping (dates tentative; include all Council and Commission meetings)

Early Nov: Full Team meeting (dates TBD)

Early 2022:   Full Team meeting (dates TBD)