BOTTLENOSE DOLPHIN TAKE REDUCTION TEAM WEBINAR MEETING
MARCH 26, 2014; 1-4:00 PM EDT

KEY OUTCOMES

I. CALL PURPOSE AND OBJECTIVES

NOAA's National Marine Fisheries Service (NMFS) convened the Bottlenose Dolphin Take Reduction Team via webinar/conference call on March 26, 2014. The primary purpose of the three-hour meeting was to develop, for NMFS' consideration, a Team consensus recommendation to reduce risk of serious injury and mortality (bycatch) to North Carolina estuarine stocks of dolphins from the stop net fishery and small mesh gillnet activity in exempted areas. Specific objectives were:

- Review the content and rationale for the North Carolina (NC) work group's preferred option, and summarize other options considered but not put forward to the full Team as a recommended approach
- Discuss the NC work group's preferred option
- Review other potential mitigation measures not already considered
- Reach closure on a Team recommendation to the agency

This summary report, prepared by NMFS and CONCUR Inc., provides a brief overview of the meeting's discussion, next steps, and key outcomes. This summary is not intended to be a meeting transcript. Rather, it provides an overview of the presentation, the primary points and options raised during Team discussions, and next steps discussed.

II. PARTICIPANTS

The meeting was attended by 30 Team members and alternates. Participating Team members (full or alternates) were: Debra Abercrombie, Paul Biermann, Tara Cox, Dean Cain, Sammy Corbett, David Cupka, Jane Davenport, Greg DiDomenico, Steve Early, Laura Engleby, Joey Frost, Mike Greco, Kenneth Heath, Chris Hickman, Jimmy Hull, Amanda Keledjian, Raymond King, David Laist, Kristy Long, Maggie Lynott, Bill McLellan, Red Munden, Peter Nixon, Jim Page, Andy Read, Sally Roman, Richard Seagraves, Joe Speight, Robert West and Sharon Young.

Laura Engleby and Stacey Horstman with NMFS' Southeast Regional Office (Protected Resources Division) convened the meeting. Scott McCreary with CONCUR and Bennett Brooks from the Consensus Building Institute served as the neutral facilitators. Additional NMFS staff in attendance included: Jessica Powell, Barbie Byrd, David Hilton, Lisa White, Glenn Salvador, and Melissa Soldevilla. Several members of the public attended the meeting, including Vicky Thayer, Sara McDonald, Danielle Waples, Kim Urian, and Doug Beckman.

III. MEETING MATERIALS

Four materials were provided to the Team in advance to support the discussions: (1) meeting agenda; (2) summary of the NC work group's December 19, 2013 call; (3) summary of the NC work group's February 18, 2014 call; and (4) a brief summary document reviewing the stop net and small mesh gillnet mitigation options considered by the NC work group. A letter from the NC Fisheries

Association to the Team was also transmitted by S. Horstman in advance of the meeting for the Team's consideration and discussion. Meeting materials and copies of the presentation can be obtained by contacting S. Horstman at 727-824-5312 or via email at stacey.horstman@noaa.gov.

IV. PRESENTATIONS

Below is a brief summary of the information and presentation provided during the meeting and clarifying questions.

A. Welcome and Introduction

NMFS staff (Laura Engleby and Stacey Horstman) underscored the value of Team deliberations and encouraged Team members to engage as productively as possible despite the challenges of a teleconference format. Laura Engleby reminded Team members of the mandates of the Marine Mammal Protection Act (MMPA) to reduce dolphin bycatch below Potential Biological Removal (PBR) levels. She noted that bycatch for both the Northern and Southern NC Estuarine System (NNCES, SNCES) stocks is exceeding their PBR levels since the Bottlenose Dolphin Take Reduction Plan's implementation in 2006 and/or when the stocks were formally defined in 2009. Therefore, the MMPA's required short-term goal, which requires serious injury and mortality from commercial fisheries to be reduced below PBR levels within 6 months of the Plan's implementation, is not being met for these stocks. She challenged the Team to find ways to help reduce bycatch to below PBR for both the NNCES and SNCES stocks. Additionally, she noted the importance and value of creating broad-based agreement and encouraged Team members to identify an approach capable of being supported by all.

Facilitators Scott McCreary and Bennett Brooks reviewed the agenda and meeting ground rules and format. Because the meeting was being held via webinar versus in-person, they clarified and emphasized the polling strategies to be used to gauge Team member support for ideas under consideration. Although recording the Team's discussion was not advised to allow for candid dialogue, B. Brooks asked that anyone on the call intending to record the discussion inform the group of his/her intent. No one participating on the webinar expressed the intent to record the discussion.

B. Presentation Updates

S. Horstman provided an update presentation that focused on:

1. a review of the stop net take and small mesh gillnet activity within the northern and southern NC exempted areas;
2. providing new information on the number of trips and participants using small mesh gillnets (<5 in. stretched) within the counties included in the exempted areas;
3. providing the number of dolphin strandings with signs of a fishery interaction in both exempted areas since 2007;
4. a review of the content and rationale for the NC work group's preferred option; and
5. a summary of other options considered by the NC work group but not put forward as a recommended approach.

Specific updates included:

- NC Trip Ticket Data showed small mesh gillnet fishing activity (numbers of trips and participants) within the northern NC exempted area for 2013 was greater than the five-year

mean of 2008-2012 plus two standard deviations. This pattern was not present for effort within the southern NC exempted area.

- From 2007-2012 in the northern NC exempted area, there were 5 bottlenose dolphin strandings with evidence of a gillnet fishery interaction (annual average of almost 1 animal). Three occurred in October, and two were in the months of March or April.
- From 2007-2012 in the southern NC exempted area, there were 9 bottlenose dolphin strandings with evidence of a gillnet fishery interaction (annual average of 1.5 animals). Four occurred in the months of October or November, three were in the months of February or March, and two were in April.
- The NC work group discussed and assessed several options to both mitigate the recent stop net take and reduce the risk of entanglement in small mesh gillnets within the exempted areas. These options generally included observer coverage and monitoring requirements, reduced fishing effort and gear limitations, increased spacing between nets, removing exempted areas, mesh size and other gear modifications, and gear research. Each option discussed by the work group was considered based on two criteria: (1) potential conservation benefits to NC estuarine dolphins by reducing bycatch and risk of entanglement; and (2) implementation considerations.
- Several reasons were provided as to why the NC work group's preferred option included removing the exempted areas despite the recent take being in the stop net fishery. First, bycatch in both the NNCES and SNCES stocks' exceeds PBR based on stranding and/or observer data (June 2013 Team meeting). Second, there is concern about the greater risks to these stocks from the increasing small mesh gillnet fishing activity in the northern NC exempted area, especially during the fall months. Third, the possibility that the recent stop net take was interconnected to the small mesh gillnet activity this past fall cannot be ruled out because of the high concentration of nets in a small area, effectively creating a maze of nets for the dolphins to navigate. Although the take in the stop net fishery causes significant concern for these stocks, it was the first documented take in the fishery since 1999. Gillnets, in contrast, are known to be the major contributor to bottlenose dolphin bycatch in NC.
- The NC work group's preferred option was expected to provide the following conservation benefits to reducing bycatch of dolphins and future risk of entanglement:
    - <u>Small mesh gillnet exemption removal:</u> Removing the existing gillnet exemptions would reduce risk of entanglement to dolphins by providing a corridor for estuarine animals foraging close to shore where small mesh gillnets are currently allowed to fish. The intent of the 100-yd fishing setback is to create a corridor, or safe passageway, along the beach for NC estuarine stocks that are known to spend significant time in the surf zone and in times/areas with heavy small mesh gillnet fishing. Removing the gillnet exemptions would also provide consistent conservation for estuarine dolphins state-wide and throughout their range in NC coastal state waters.
    - <u>Stop net gear modifications:</u> Reducing 75% of the stop net webbing from large to small mesh would provide conservation benefits to dolphins based on the understanding that small mesh webbing has a reduced bycatch rate.

S. Horstman concluded with the Agency's goal for the meeting, which was for the Team to provide to NMFS a consensus recommendation on management measures to reduce overall bycatch from both the stop net and small mesh gillnet fisheries to below PBR for the NNCES and SNCES stocks, respectively. She noted that it currently appeared as though the NC work group's preferred option

offered the greatest conservation benefit to the two strategic NC estuarine stocks by reducing potential future risk of entanglement and related serious injury and mortality.

C. Clarifying Questions

- Clarifying questions were raised about (1) the nature of the existing "trigger" to remove the exempted areas and why stop nets were not originally included, and (2) the process to be used if there is another stop net take. S. Horstman explained that the existing trigger is only for dolphin takes with strong evidence of a gillnet interaction. Stop nets were not originally included because there had not been a documented take since 1999 and the risk of entanglement was considered much lower than for gillnets. If there is another stop net take, the Agency would consider all new information and determine the need to reconvene the Team.
- Several questions were posed related to the graphs showing NC Trip Ticket Data and the increase in the number of small mesh gillnet fishing trips and participants for 2013 within the northern NC exempted area. Clarifications were provided that the number of trips and participants presented for 2013 includes all oceanside waters versus only those within the first 100 yards of the beach. It was noted that there were many fishermen fishing offshore of 100-yds from the beach in 2013. Based on how trip ticket data are reported, the exact locations of nets cannot be determined in terms of distance from shore or where along the coast.

V. MEETING DISCUSSIONS

Below is a brief summary of the Team's discussion following the update presentation.

The Team spent significant time posing clarifying questions regarding the options considered by the NC work group, generating alternative approaches and hybrid options, and taking stock of Team member preferences for options under consideration. The most broadly discussed options, summarized in Table 1 below, included: (1) the NC work group's preferred option; (2) for small mesh gillnets, to modify the northern NC exempted area (offered by the NC state representative); (3) for small mesh gillnets, to modify the timeframe of both exempted areas to allow seasonal fishing from the beach (offered by the NC Fisheries Association); and (4) revising the existing "trigger" for removing the exemptions if any options are recommended that maintain all/partial exemptions (offered by the Agency).

Table 1: Options most broadly discussed by the Team

Option 1: NC Work Group Preferred Option a. Stop Nets: First 100 yds of stop net remain large mesh (> 6 in. stretched) per NCDMF regulations, and cap rest of net (300 yds) at ≤ 4 in. stretched. b. Small mesh gillnets: Remove exemptions in both the northern and southern NC exempted areas, thereby prohibiting small mesh gillnet fishing year-round within the first 100 yds from shore at any tide, as required elsewhere in the state.
Option 2*: NC Fisheries Association Gillnet Option • Small mesh gillnets: Exemptions remain in place from Sept. 1 – Nov. 30 for both the northern and southern NC exempted areas, thereby allowing small mesh gillnet fishermen to fish from the beach during those three months. Net attendance was offered in the exempted areas during Sept. 1 – Nov. 30.
Option 3*: NC State Gillnet Option • Small mesh gillnets: Modify the northern NC exempted area by removing the exemption

along Bogue Banks and keeping the exemption from Beaufort Inlet to Cape Point at Cape Lookout (i.e. Shackleford Banks). The southern NC exempted area would be kept in place.
Option 4: Revised Trigger Option • This option was suggested to be added for any selected option that retained an exemption (Options 2 and 3) and was intended to revise the existing "trigger" for exemption removal. • Revised Trigger: Remove exemptions for small mesh gillnet if there is a "take" within any exempted area, regardless of fishery (i.e., stop net or small mesh gillnet). "Take" is interpreted as reported, observed, and/or stranding with evidence of a fishery interaction.

*Team members mainly discussed these options as replacements for Option 1, part b.

Other ideas and options generated during the discussion included (1) increasing dedicated observer coverage in any remaining exempted areas; (2) establishing increased spacing requirements between nets; (3) limiting the amount of gear, and thus effort, in a given area; (4) proceeding with the stop net portion of Option 1 and continuing to monitor exempted areas for small mesh gillnet activity and potential bycatch; and (5) maintaining the status quo. The following were general concerns expressed for these ideas:

- lack of resources to provide and increase dedicated observer coverage;
- increasing spacing requirements may cause fishermen to move into areas where there is currently no fishing, thus increasing potential entanglement risk;
- gear limitations may not address overall increased fishing effort concerns; and,
- maintaining status quo and/or only implementing gear modifications for stop nets would not provide sufficient conservation benefits for the NC estuarine stocks given bycatch is still exceeding PBR.

Option 1 (NC Work Group):

- Discussion of Option 1 generated several clarifying questions, additional thoughts, and requirements for considerations.
    - Questions and concerns were raised about considering economic impacts on fishermen if the exemptions were removed. While the economics of the fishery is important and is analyzed during the federal rulemaking stage, the Agency clarified that the MMPA's statutory focus for the short-term goal is to reduce bycatch to below PBR for each stock. At this stage, it does not specify taking fishery economics into account when discussing take reduction measures. Once the Team turns to explicitly addressing impacts in terms of achieving the long-term goal, economic considerations will take on a more central role in the Team's deliberations.
    - A few members of the Team noted that their support for the stop net component of Option 1 was contingent on or linked to the companion step of removing the gillnet exemptions. Some also noted that their support of the stop net component represented a stepping back from their preferred option to reduce webbing in the entire stop net to ≤ 4 inches stretched, which could not be supported by the State because of past user conflicts.
    - Others noted that their support of the stop net component of the proposed regulations was contingent on the exemptions remaining in place. However, these Team members stated that they could support this option if the gillnet component (i.e., removing both exemptions) was replaced with another gillnet option being discussed (e.g. Options 2 and 3).

- Primary reasons for noted support of Option 1: Among the options, it would provide the greatest certainty of conservation benefit to dolphins when tied to removal of small-mesh gillnets in exempted areas; notably because bycatch for the NC estuarine stocks is already over PBR and gillnets pose the greatest risk of entanglement. Option 1 also addresses the likelihood of what contributed to the November stop net take - the combination of stop nets and small mesh gillnets in a relatively confined area creating a fence-like, maze effect for dolphins to navigate, exposing them to increased risk of entanglement in any net.
- Primary reasons for noted concern with Option 1: The rationale and perceived fairness of requiring mitigation measures for a different fishery (i.e., small mesh gillnets) when the take was in the stop net fishery, and potential economic impacts of affected small mesh gillnet fishermen with removing the exempted areas.

Option 2 (NC Fisheries Association Gillnet Option):

- Several questions and discussion of this option were related to observer coverage and attendance of gillnets during the 3 months when the exemptions would remain in place.
    - Observer coverage – Team members noted observer coverage is crucial for the "trigger" if exemptions are maintained. Questions were raised about the feasibility of using fishermen-funded observer coverage for monitoring exempted areas. This coverage would be contingent on discussion with state officials and approval of funding from the NC state legislature, but the state representative on the Team suggested the state would likely consider devoting some of the resources to coverage in the exempted areas. The Agency clarified that observer coverage noted in the NC Fisheries Association letter is a requirement of the sea turtle Incidental Take Permit for inshore gillnet fisheries, and cautioned that there are many competing needs for this observer coverage.
    - Net attendance – the discussion on proposed net attendance was focused on (a) if attending nets would indirectly reduce overall soak time and the amount of gear fishermen could fish; and (b) the feasibility of responding to an entangled dolphin in time to disentangle/release it without causing serious injury or mortality.
        - Reduced effort - It was generally thought net attendance would likely reduce soak durations and the number of nets fished. This is because fishermen would not be able to set as many nets while still being able to maintain visual contact with the entire net. In considering whether there would be more/less potential economic impacts associated with fishing less gear under Option 3 or fishing 100 yds off the beach in Option 1, it was noted that this would be different for each fishermen. Net attendance was noted as difficult to enforce, and may unduly burden the state of North Carolina.
        - Conservation benefit – Based on past examples of short soak times with tended research gillnets, net attendance was not forecast to have a conservation benefit in preventing serious injury and mortality from a more immediate response by fishermen. However, the indirect benefit of potential gear limitations would provide some conservation benefit.
- Primary reasons noted for support of Option 2: Provides potential conservation benefit from reduced gear in the water, thus reducing overall risk of entanglement.
- Primary reasons noted for concern with Option 2: There is not a strong conservation benefit because the time period proposed for retaining the exemptions coincides with high bottlenose dolphin presence and past occurrence of strandings with signs of fishery interactions.

Enforceability of this option was another stated concern and was seen as crucial to potential conservation benefits gained from any reductions in fishing effort.

Option 3 (NC State Gillnet Option):

- The main discussion for this option was focused on the potential unintended consequence of concentrating fishing effort along Shackleford Banks, especially if there is another good year of fishing like in 2013.
- Team members noted the potential conservation benefit in reduced entanglements when considering where the historic strandings with fishery interactions occurred in the northern NC exempted area – 3 were along Bogue Banks and 1 on Shackleford Banks.
- Primary reasons noted for support of Option 3: Provides clear conservation benefit along Bogue Banks (where exemption is removed), while still maintaining an area along Shackleford Banks for fishing with small mesh gillnets up to the beach.
- Primary reasons noted for concern with Option 3: Potential unintended consequence of concentrated gear along Shackleford Banks where the exemption would be retained, thereby raising the risk of entanglement.

Option 4 (Revised Trigger):

- Clarifying questions were raised on (a) what types of fishery/gear would "trigger" removal of the exemptions; and (b) the types of interactions that would be considered a take.
    - Clarification was provided that any type of fishery/gear linked to a take (observed, reported, of stranding with strong evidence of fishery interaction) would trigger exemption removal for small mesh gillnets.
    - Clarification was provided that a dolphin released alive from a net (even if not a serious injury or mortality) would be considered a take under the MMPA.
- Comments on the revised trigger tended to be driven more by individuals support for or against options maintaining some aspects of the exemption. In other words, it was not generally tied to the nature or logic of revising the trigger itself.

Other:

- Two Team members raised questions to the NC state representative on how and why the existing 100-yd fishing setback in the northern part of the state affects their beach-based gillnet fishing. The NC state representative indicated he would research this topic and get back in touch with them.

VI. MEETING OUTCOMES

The facilitation team polled Team members or alternates (23 still on the Webinar) at the end of the call to gauge the range and level of support for the primary options under consideration.[1] To be thorough in the gauge of support, participants were asked to express preferences in two ways: to indicate whether they could or could not "live with" each option and which option they preferred.

Of the four main options discussed (Table 1), most (82%) participating Team members (19 of 23) indicated they could "live with" Option 1 (Work Group's Preferred Option), with 10 indicating this

[1] Given the Team was convened via Webinar, Team members were polled individually on their preferences to better inform NMFS of the range of perspectives and gauge whether there was consensus, and if not, the relative level of support for the individual options under consideration.

was their preferred option. The indication of strongest support for Option 1 was broad-based, representing all stakeholder groups on the Team, including all state fishery agencies, conservation, and science representatives and at least half of the participating fishing industry representatives. Seven Team members indicated they could "live with" Option 2, and five said it was their preferred option. Ten Team members indicated they could "live with" Option 3, and seven said it was their preferred option. Both Options 2 and 3 had much less support than Option 1, and the support was not broad-based (i.e. it was limited to fishery and/or state representatives). Because full consensus was not reached, per section 118(f) of the MMPA, the range of options considered and discussed by the Team, as well as the views of both the majority and minority, are summarized in these key outcomes.

VII. NEXT STEPS

NMFS noted that a key next step will be to consider the Team's feedback and provide an update as soon as possible on next steps and the Agency's preferred approach for moving forward with conservation measures for strategic NC estuarine stocks of dolphins. One Team member noted it was imperative to implement any final decision regarding stop net mesh size fairly quickly, as stop-net fishermen will need 4-6 months to change out their gear.

VIII. PUBLIC COMMENTS

An opportunity for public comment was provided, but no public comments were offered.