

Canada/U.S. Transboundary Resources Steering Committee
Courtyard Marriot Boston Downtown/North Station, Boston MA
September 12, 2018
Meeting Minutes

Canadian Participants:

Mary-Ellen Valkenier, DFO, Steering Committee Co-chair
Alain d'Entremont, TMGC Industry Co-chair
Terry Higgins, Integration Committee
Ray Belliveau, GOMAC Co-chair
Roger Stirling, GOMAC Co-chair (via teleconference)
Kirsten Clark, DFO, TRAC
Jennifer Ford, DFO, TRAC Co-chair
Matthew Fraser, DFO, TMGC
John Couture, Unama'ki Institute of Natural Resources, TMGC
Chelsey Karbowski, ENGO observer

U.S. Participants:

Michael Pentony, GARFO Regional Administrator, Steering Committee Co-chair
Jennifer Anderson, NMFS GARFO, Integration Committee Co-chair
Michael Asaro, NMFS GARFO, Species at Risk Committee Co-chair (via WebEx)
Marianne Ferguson, NMFS GARFO, Integration Committee
Sarah Heil, NMFS GARFO, TMGC
Tom Nies, NEFMC, Executive Director
Michael Pentony, NMFS GARFO, Steering Committee Co-chair
Mike Simpkins, NMFS NEFSC, TRAC
Katherine Sosebee, NMFS NEFSC, TRAC Co-chair
Terry Stockwell, NEFMC Vice-chairman, TMGC Co-chair
Spencer Talmage, NMFS GARFO, Integration Committee

Opening Remarks

Mr. Mike Pentony opened the meeting by welcoming the Canadian delegation to Boston and thanked the meeting organizers and the Council for their work. He followed with several updates. He shared that the Magnuson Stevens Act Reauthorization Bill passed the House of Representatives in July and is now in the hands of the Senate. He also mentioned that there are multiple companion bills, but they are not aligned and still need to go through the Senate this year if they are going to be passed.

He then noted that at the time of the meeting, there had been 600 reported seal deaths in Maine, New Hampshire, and Massachusetts. Some seals have tested positive for phocine distemper and avian flu, but these diseases are not yet confirmed to be the cause of the die-off and more work is currently being done. NMFS declared these deaths an unusual mortality event, which focuses economic and research resources on the issue. NMFS is also working with the Center for Disease Control to share guidance on how to properly approach the stranded seals and to assist communities and towns with disposal of the carcasses. There is more information to come as this situation develops in the coming weeks.

Mr. Pentony reported that there was one North Atlantic Right Whale (NARW) death in U.S. waters in August, the second NARW death in 2018. A male NARW, approximately 1.5 years old and 30 feet long, was seen drifting off Martha's Vineyard in late August. It is likely one of the five calves born in 2016/2017. The necropsy showed 11 lesions that were consistent with entanglement, but no gear was found with the whale. More analysis is to come from the necropsy. Mr. Pentony mentioned that the Atlantic Large Whale Take Reduction Team (ALWTRT) meeting will be held in early October, pending the passage of the federal budget before the end of the fiscal year.

Mr. Pentony mentioned that the latest stock assessment shows that mackerel are overfished and undergoing overfishing. The Mid Atlantic Fishery Management Council, which manages the stock, proposed a five-year rebuilding plan of 17,000 metric tons (mt) landings from the U.S. and 10,000 mt for Canada in 2019. The next stock assessment will occur in 2020. The rebuilding progress will be evaluated then.

Next, Ms. Mary-ellen Valkenier thanked the meeting organizers and the TMGC participants. She noted that there was a ministerial change in July. The Honorable Jonathan Wilkinson from North Vancouver was previously a Parliamentary Secretary prior to his appointment as Minister. He has visited the East Coast already and is engaged in key issues. She also mentioned that Annette Daley is now the Regional Director of Fisheries Management (previously the Regional Director of Ecosystems Management and Director of Oceans). Other new roles include Wendy Williams as Director of Oceans and Christie Chute as Director of Marine Conservation, Aquatic Ecosystems Sector, who will be responsible for implementing Canada's five-point plan to achieve our Marine Conservation targets of 10% by 2020. Ms. Valkenier mentioned that the Government of Canada continues to seek public comment on the amendments before Parliament to strengthen Canada's Fisheries Act under Bill C-68. The comment period closes September 21, 2018. She also advised that Canada introduced new rules for whale watching and approaching marine mammals, so anyone contravening the Marine Mammal Regulations can now be charged with an offense under the Fisheries Act.

2018 TRAC Results

Cod Assessment

Ms. Kirsten Clark indicated that survey biomass indices for Eastern Georges Bank cod decreased for all three surveys in 2017, and recruitment continues to be poor. The TAC for this stock in 2018 is 950 mt, and the neutral risk catch advice provided by TRAC for 2019 is 676 mt, while the low risk catch advice is 602 mt. Even in the absence of fishing, the stock is not expected to increase from 2019 to 2020 or 2020 to 2021 in the Virtual Population Analysis (VPA) Model due to the 2013 cohort entering the ages of high natural mortality. The TRAC also stated that while they were providing advice based on our existing modeling approaches this year, the results from these approaches are increasingly unreliable for management purposes, and an alternative approach for stock status advice is urgently required.

Haddock

Ms. Clark mentioned there was a rapid change in the haddock stock indices this year. Ms. Clark said they will report on what information they have in the assessment in 2019, and the retrospective analysis and model results might provide more guidance on the two year swing. She shared that the population

hinges on the 2013 year class and that TRAC advises a range of 23,000 mt to 27,500 mt for catch in 2019.

Yellowtail Flounder

Ms. Katherine Sosebee shared that declining trends in the yellowtail flounder population are relatively consistent with previous years. The population is considered to be at a very low level, and signs of recruitment are poor. The TRAC recommend an upper bound for the exploitation rate of 6% for catch advice, which results in 68 mt for 2019. Mr. d'Entremont noted that in 2014 there was a benchmark review that resulted in the empirical approach, and that of the three species, yellowtail flounder has had the most consistent, full-fledged review of the empirical approach.

Allocation shares

Ms. Clark indicated that the purpose of the allocation shares is to achieve similar exploitation rates on the Canadian and U.S. sides. TRAC agreed to use a combination of updated resource distribution and catch history (1967 to 1994) and that there has been no change in allocation share TORs.

TRAC 2019 Terms of Reference and Future Meeting Schedule

Ms. Jennifer Ford explained that TRAC annually obtains requests for harvest advice on transboundary resources from the Transboundary Management Guidance Committee (TMGC), and then uses this advice to develop the TRAC TOR for the coming year. She noted that there were concerns over the cod model and that TMGC asked TRAC to investigate alternative methodologies of providing catch advice as a temporary measure until a benchmark assessment can be completed for the stock.

There was discussion regarding the approach of having TRAC not providing catch advice for cod for 2019. It was indicated that there is value in providing assessment staff with a two-year window to develop a better approach to providing advice for this stock, given serious concerns raised by TRAC about the existing methods. In 2019, TRAC would provide an update of key stock indicators.

Other

Ms. Daley asked if there should there be some commonality in language between the three species, given that each of the final bullet points in the three species talks about the appropriateness of advice. Ms. Ford replied that while approaches for each stock are very different, for the future the TRAC can consider whether more consistency is possible when the ToRs are written.

Process

As this process would be a significant change from previous years, the Steering Committee requested time to review the draft ToRs before approving them. TRAC members also indicated that they wanted to provide assessment staff with the opportunity to review the draft ToRs for 2019 before finalizing them. A final version of the 2019 ToRs will be provided to the Steering Committee within two weeks for final approval.

TMGC Report

Mr. Stockwell began by summarizing the TMGC meeting and thanking all involved for the hard work that went into the meeting.

Yellowtail Flounder

Mr. Stockwell shared that the TMGC agreed to a total allowable catch (TAC) of 140 (mt) for 2019, which is the lowest quota on record. He shared special considerations in regards to the 2018 NMFS Spring survey, which had fewer tows in key areas and fewer tows in general than normal.

Haddock

Mr. d'Entremont shared that the TMGC agreed to a TAC of 30,000 mt, split 50/50 between the United States and Canada. He requested that the Steering Committee consider a benchmark review as a priority, as the current model was developed in 1998. He reiterated that the species has a two-year catch advice cycle. He also mentioned that large year classes are growing more slowly due to density dependent growth. Mr. d'Entremont finished the summary by saying haddock is a healthy stock, but there are management issues to address.

Cod

Mr. Stockwell shared that the TMGC agreed to a TAC of 650 mt for 2019, 461 mt for Canada and 189 mt for U.S. He stressed that Canadian fishermen need cod quota in order to catch haddock.

Winter 2019 Intercessional

Mr. d'Entremont followed up the TMGC report with the proposal for a Winter 2019 Intercessional meeting to reopen discussions of quota trading. The TMGC previously discussed quota trading in 2011-2013. Mr. d'Entremont shared that white papers have been developed on the subject, and would be shared with the group. He stressed that implementing any quota transfer process will take time. Mr. d'Entremont asked that both countries go back to their respective fisheries to discuss their interest in quota trading and to think about what trades would make sense. Mr. Nies stated that the U.S. needs to go back and discuss quota trading internally, and stressed that the New England Fishery Management Council has multiple priorities and it might be a challenging to address this issue in the near term.

Closing Remarks

Mr. Pentony closed the meeting by extending thanks to everyone for their hard work and their attendance. Ms. Daley acknowledged that there had been some challenging discussions. Some of these challenges include the fact that lower stock numbers mean that there is more variability. Other issues included the timing of the NMFS spring survey and the Science and Statistical Committee (SSC) recommendations – and the SSC recommendation for yellowtail due to weather and vessel issues. Mr. Nies stressed that yellowtail flounder is a hugely important bycatch species for the scallop fishery.

Ms. Valkiener said that she was happy with the TMGC results and would bring the numbers back to the Minister of Fisheries, Oceans and the Canadian Coast Guard for approval. Mr. Pentony echoed her acceptance and thanked the TMGC for their efforts. He said the numbers would be brought to the New England Fishery Management Council for approval at their Mid-September meeting.

Dates were then set for the Steering Committee teleconference in April and next year's September in person meeting (see below).

Species at Risk Working Group (SAR WG) Update – Friday, September 14, 2018 via Webinar

North Atlantic Right Whale Updates

Mr. Mike Asaro reported that on August 27th a right whale carcass was seen off Martha's Vineyard and underwent a necropsy three days later. The internal organs were in good condition, despite injuries on the exterior, which suggests that the whale died shortly before the necropsy suggesting that the whale was entangled near where it was discovered. NMFS has observed young right whales drowning as a cause of death because juveniles are not capable of breaking or hauling gear as adults can. The whale was a 30 ft male and likely a calf from the 2016-2017 calving winter. He noted that the whale was small for its age, a trend that NMFS has been seeing with right whale sizes recently, making size-based estimates for age challenging. No gear was present, but there is good evidence that points towards it being an entanglement mortality. However, other potential causes of death cannot be ruled out.

Section 7 to the Endangered Species Act Overview

Mr. Asaro then provided an overview of the Section 7 consultation process of the *Endangered Species Act* (ESA) to provide context to the right whale situation. Under Section 7, NOAA fisheries consults "with itself" to authorize fisheries. NMFS has an ongoing consultation under Section 7 for a number of fisheries on the U.S. East Coast, including those that may affect right whales. Past consultations have concluded that commercial fisheries do not jeopardize the continued existence of ESA species, including right whales. NMFS is currently anticipating the outcome of this process, which could either initiate Reasonable and Prudent Measures (RPM) or Reasonable and Prudent Alternatives (RPA) based on the outcome of the biological opinion.

When asked if there was any intent to examine further fisheries with a Biological Opinion, including Jonah crab, Mr. Asaro responded that Jonah crab was likely analyzed under the Lobster Biological Opinion and that he would double check on the Jonah Crab and Surf Clam and Ocean Quahog Fisheries (not being initiated). Mr. Nies said he suspected Mr. Asaro was right, and that Surf Clam access to the Habitat Management Area (HMA) off Nantucket may generate a question as to whether that fishery is being examined. Mr. Asaro replied that with right whales, NMFS typically focuses on fixed gear and anchored vertical lines.

Atlantic Large Whale Take Reduction Team

Mr. Asaro summarized that the Atlantic Large Whale Take Reduction Team (ALWTRT) is a *Marine Mammal Protection Act* (MMPA) process to develop measures and options to reduce impacts of the fisheries on right whales. The ALWTRT was established in 1996 to reduce incidental take of right whales, humpback whales, fin whales, and minke whales in commercial trap/pot gear and gillnet gear in Eastern U.S. Waters with a goal of reducing serious injuries and mortalities to below Potential Biological Removal (PBR). Mr. Asaro showed a timeline of ALWTRT activities that included significant weak link requirement, seasonal gillnet closures, sinking groundline, and minimum trap per trawl.

Mr. Asaro then laid out what is at stake for the upcoming Take Reduction Team (TRT) meeting scheduled for October 9-12 in Rhode Island. Population recovery goals are not being met, there is a lack of

productivity, and entanglement continues at unsustainable rates. Since scarring analyses is another topic of discussion, TRT members have been invited to submit proposals to reduce vertical lines. The TRT will then deliberate and modify the proposals, and see if there is any agreement. Findings on weak rope will be presented, and the TRT will examine several ropeless fishing options, which are largely in the prototype phase. The TRT working group met previously to examine costs and drawbacks. They are currently engaging in cooperative research to refine and develop ropeless fishing options to improve feasibility. The Ropeless Fishing Working Group is looking at a much larger timeline and recognizes that development and refinement is needed for the technology. There will be a follow up meeting in February 2019. The proposals in October will likely raise a lot of questions, so considerable time will be spent between meetings analyzing the proposals for the February meeting.

Canada/U.S. Right Whale Bilateral Working Group

Mr. Asaro noted that this group has been working together for approximately a year, with the goal of sharing experiences on management and science to learn from each other and plan collaborations in the future. He noted there has been a lot of science collaboration and that NOAA is planning a survey in the Gulf of St. Lawrence, as well as studying passive acoustic technology through the right whale range and gear technology. The next meeting for the group is October 3rd in Boston.

Northeast Pinniped Unusual Mortality Event

Mr. Asaro described significant seal strandings for harbor and gray seals in July, August, and September in the Gulf of Maine. He said the numbers were well above average – 853 stranded, 660 dead. An Unusual Mortality Event (UME) was declared on August 31st, which unlocks funding and veterinary expertise to deal with the mortality event. Initial testing shows that seals have tested positive for the phocine distemper virus and avian influenza, which is similar to a UME that occurred in 2011. He also noted that the seals are especially close to each other on haul out sites. NMFS is currently coordinating with State and Local authorities on how to handle carcasses safely.

Canadian Species at Risk Update

Ms. Annette Daley began by thanking Mike and relaying that she was happy he noted that there are ongoing collaborative efforts. In describing Canada's efforts to respond to the Right Whale UME, she indicated that they had a lot of collaboration with the fishing industry to respond to entanglement. So far there had been no mortalities in Canadian waters and a much lower rate of entanglement. Of the two suspected entanglements, one whale was suspected of shedding gear and one was disentangled. She mentioned that Canada has mandatory and voluntary fishing management measures in place to address the situation, including static and dynamic closures. Slowdown zones in the Gulf of St. Lawrence are in a static area for the bulk of the season, starting in April. Since half the mortalities (based on necropsies) that occurred in the Gulf of St. Lawrence in 2017 were believed to be due to vessel strikes, work focused on both addressing vessel strikes and entanglement to reduce injury and mortality. Ms. Daley relayed that there was a lot of disruption to fishing activity in the Gulf of St. Lawrence in 2018, especially to those in the snow crab and lobster fisheries. She said DFO will do consultations on improving measures to decrease impacts on fisheries, while maintaining risk levels for NARW.

Ms. Heidi Schaefer then discussed response efforts, indicating that although their focus is on prevention, DFO also increased response under the Marine Mammal Response Program and provided \$1 million

annually for response organizations. DFO also reinstated the disentanglement of North Atlantic right whales by response organizations authorized by the Department to conduct large whale disentanglement. In terms of research, Ms. Schaefer mentioned that the Canadian government is providing support to groups testing ropeless gear and worked with research partners to develop a web-based real-time mapping application (WhaleMap) that provides access to information about right whale sightings.

She also described a joint collaboration between DFO and the Natural Sciences and Engineering Research Council for Canada (NSERC) supporting response, which will aid the recovery of endangered whale species in Canada, including right whales. Funding will go to large-scale university-based research projects focusing on the health of these whales and the stressors affecting them. DFO is also involved in other ongoing research initiatives including the analysis of acoustic data, enhancing real time detection of right whales, and work to better understand prey distribution.

In terms of monitoring, Ms. Schaefer said DFO and partners are monitoring right whales very closely and extensively using aerial surveillance, vessels, autonomous gliders, and moored acoustic recorders. These tools are used daily to implement dynamic closures and respond to entanglements. Ms. Daley added that Canada has significantly increased their ability to monitor whales as Ms. Schaefer had alluded to, and that there is a process to increase surveillance and implement dynamic closures. As it pertains to the transportation sector, there is a monitoring requirement on shipping lanes.

On the regulatory side, Ms. Schaefer indicated that DFO amended Marine Mammal Regulations under the *Fisheries Act*, providing increased protection to right whales and other whale species by limiting vessel approach distances and prohibiting disturbance to whales. Support is also being provided to fisheries partners undertaking projects aimed at reducing entanglement risk to right whales.

For next steps, she said DFO will be working with industry to review management processes undertaken this year in terms of assessing their effectiveness in preventing entanglements. This will involve extensive consultation with the fishing industry to refine and adjust measures to reduce entanglement risks to right whales while minimizing the effects on fishing communities. Internal reviews will also be undertaken to understand and optimize processes, such as processes for gathering and sharing information. This work will be coordinated across all DFO regions in Atlantic Canada, to support the development of informed and effective measures in each area and for each fishery during future fishing seasons. She mentioned that DFO is in the process of updating the *Species at Risk Act* action plan, which will take into consideration the events of the past few years. The plan will address all threats right whales, not just fisheries.

Ms. Daley closed the discussion by thanking Ms. Schaefer for her presentation and stating that they will continue to update this committee and its participants. Updates will include a consultation with industry by December, and discussions about mandatory changes that need to be in place by early January 2019.

NEXT MEETINGS:

- **Steering Committee Teleconference April 30, 2019 2-4 PM AST/1-3 PM EST**
- **TRAC July 9-11, 2019, St. Andrews, NB**
- **TMGC – September 10-11, 2019, Halifax, NS**
- **Steering Committee – September 11-12, 2019, Halifax, NS**